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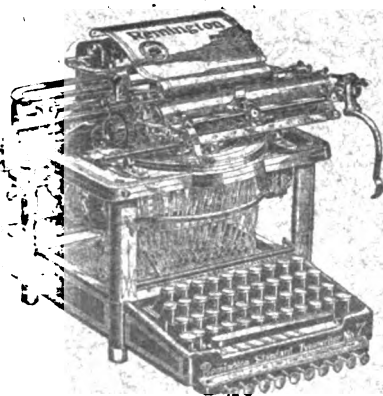
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PART ONE

*Relation of the Government and
the Public to Corporate
Development*

THE ANNUAL ADDRESS—THE GOVERNMENT'S RELATION TO
CORPORATE CONSTRUCTION AND MANAGEMENT

BY HONORABLE PETER S. GROSSCUP,
PRESIDING JUDGE, UNITED STATES CIRCUIT COURT OF APPEALS, CHICAGO.

THE PUBLIC REGULATION OF CORPORATIONS—DISCUSSION
OF JUDGE GROSSCUP'S ADDRESS

BY HONORABLE HERBERT KNOX SMITH,
UNITED STATES COMMISSIONER OF CORPORATIONS, WASHINGTON, D. C.

AMENDMENT OF THE SHERMAN ANTI-TRUST LAW

BY THEODORE MARBURG,
BALTIMORE, MD.

THE GOVERNMENT'S RELATION TO CORPORATE CONSTRUCTION AND MANAGEMENT

BY HON. PETER S. GROSSCUP,
Presiding Judge United States Circuit Court of Appeals, Chicago.

I do not purpose to use up the time you have given me for this address in any discussion of my subject that would be merely juridical; that will be left, so far as I am concerned, to those who approach the subject from the standpoint of the jurist only. Nor do I intend to deal with the subject on the supposition that you wish a detailed thesis on the scope and limits of government upon the thousand and one points at which, in practice, government and the management of corporations come into contact; that I shall leave to those who write the guide-books of corporate practical life. What I purpose doing—and in so doing am conscious that I may be departing from the specific subject in the mind of those who invited me—is to utilize this occasion, and this audience, and the greater audience that this Academy reaches, in an effort to point out, not so much what should be the scope and limits of governmental interference in the management of the corporations, as they exist to-day, as what should be the purpose, as well as the scope and the limits of government, in its construction and management of the corporation of the future. For I take it, it is just as much the province of political and social science to look ahead as to look along the way—to forecast, and even to aid in foreordaining, the great political and social developments of the future, as to take stock of the present. To that end I shall try to lay down first the structural principles on which the corporation of the present should be reconstructed into the corporation of the future; secondly, the fundamental object, social, political and economic, of such work of reconstruction; and, lastly, the scope and limits of governmental interference in bringing that about. If the taking up of the subject in this order has the appearance of putting the remedy before the evil to be remedied and the power of government to remedy—in other words, of putting the cart before the horse—my answer is that in setting

forth as well as I can what I regard to be the fundamental evil of the present day corporation policy, and the power of government to cure it, I wish you to be bearing in mind constantly, not only the pertinency of the changes that I suggest, but their simplicity also. Or, to put it in another way, I do not wish, while I am setting forth the deep ultimate effects that the present corporation policy of the country is having upon the political and social fortunes of the people, to have you carrying along in your minds the feeling "So it is; all that is true; but how can it be helped?" For it is my judgment that it can be helped, and that the first duty of American statesmanship that is really in earnest is, not to use up the reformatory energies of the American people in storms and counterstorms of blind accusation, but, having intelligently uncovered the evil, to proceed to lay the axe at the root.

(a) First, then the structural principles on which the corporation policy of the country should be reconstructed. In this country the corporation is a creature of the executive department of the several states, and issues out of such department almost as a matter of course. Neither the object for which the corporation is formed, nor the amount of its capitalization, nor the character of the securities issued, commands any preliminary attention other than such as is merely perfunctory. Put-your-nickel-in-the-slot-and-take-out-a-character, is the invitation that the states extend; and in line before the slot machine—entitled, too, to an equal place in the line—are the corporate projects conceived to defraud, as well as those that have an honest purpose. Neither is detained by so much as an inquiry. For indifference such as that, I would substitute, *at the very threshold of the corporation's application for existence*, an honest, careful inquiry, by some tribunal of government—the inquiry being whether the project should be incorporated at all, and if so, upon what terms. Take, for example, the Northern Securities Company, dissolved by order of the United States Circuit and Supreme Courts. Had application to organize such a company been made to a tribunal that gave the matter judicial investigation—the government being represented by counsel on whom devolved the duty of seeing to it that no corporation contrary to law or public policy should be launched—the application, presumably, would have been refused. What honest project can object that the inquiry should take place before, rather than after, the event? One of the claims on public approval that

the administration of Mr. Roosevelt justly puts forward, is that he is diligently pursuing the thief after the horse is stolen. Why should not the stable door be locked *before* the horse is stolen?

(b) The corporation as at present organized by the states has license to issue all the securities it chooses—securities whose place in the corporate geologic stratification no ordinary mind can locate. Out of this have come the many instances of capitalizations that serve no purpose other than to exploit with one hand the consuming public, while baiting with the other that portion of the public, which, with hard-earned savings, is looking for some opportunity to help itself along in the race of life. No honest project needs license like that. Let the initial securities issued be related in a fair business way to the actual values put in. Let this be subject to careful inquiry before the securities are issued.

(c) Incorporated enterprise, just as private enterprise, should be given room to grow. A dollar turned into two, ten, twenty, if turned honestly, wrongs no one. "Go forth, increase and multiply," is a command without which economic progress would not be. But in all this there is no need that the corporation should initially capitalize a projected success, that if it exists at all, exists only in the future. Let the securities issued on account of unusual expected success be issued only when success is established; and let them be fairly related, as the enterprise grows, to the increased value of the actual earning power developed. I can see no reason why in any honest enterprise, the question whether additional securities shall be issued, should not be made the subject of judicial inquiry.

(d) But the restriction of capitalization to figures that are fair will accomplish little, if the declaring and paying of unearned dividends be left to those who are in control of the corporations; for it is not on the par value of securities, but upon the size and regularity of dividend payments, that the public makes up its judgment as to values; and it is not on mere capitalization that the schemer in corporate securities counts, but upon his ability to make the public believe that the capitalization has an earning power. Take the well-known case of some of the Chicago traction companies. When organized twenty years ago these companies put into operation a street railway system which, on its physical side, was one of the best then in existence. Street railway traffic in the City of Chicago was such that out of its earnings the system, besides paying interest

on actual money invested, and a reasonable return upon the project as a business venture, could have been kept up to the highest standard, so that it would have continued to be one of the best in the world. But such was not to be, for in addition to the securities issued for the money actually invested, a flood of other securities were issued; and to make these good in the hands of the promoters, the chief thought was naturally concentrated, not upon keeping up the system as a carrier of passengers, *but of keeping up dividends upon such promotion securities as would enlist the interest of the stock market*; for without dividends the securities would have remained near zero, and that, too, irrespective of how small the issue was. But with high dividends, paid year after year, until they were no longer questioned, the promotion securities rose in the stock market to par, to double par, and beyond that, irrespective of how large the issue was. It was not the capitalization, but the high dividends regularly paid for a long period that did the trick; not real dividends in any honest application of that word to earnings, but trick dividends—dividends that stripped the enterprise of its power to keep up with its public duty; that let the enterprise gradually but surely run down; and that borrowed millions for dividends on the top of the depletion. Indeed, the whole transaction was a moral crime—a crime that robbed honest men and women of the accumulations of a lifetime—a crime that is not fully expiated either by arraigning before the bar of public opinion the men who got away with the plunder. I arraign, *as accessory before the fact*, the people of the great state who, scrupulously honest in their individual dealings, issued to the projectors of this crime the ready-made corporate weapon without which the crime could not have been committed.

(e) One thing more in the line of structural principles. The first duty of every enterprise, incorporated or private, is to secure to the capital invested its eventual safe return, while paying on it from time to time, after payment of operating expenses, such fair returns for its use as the nature of the venture suggests. That is what capital always has the right to ask. But this having been accomplished, there are some enterprises now that take labor and management into partnership in the further disposition of the fruits of success. That kind of partnership is not compulsory, and is not usual. I would not make it compulsory; but I would try to infuse into

the corporation of the future, an incentive and a spirit that would make it more usual—that would give to the workman, the clerk, the employe of every kind, an opportunity to individually share in the growth of the enterprise to which he is attached. This is not a mere philanthropic dream. The spirit will come when the employe feels that what he gets, he gets as a matter of contract, not as a matter of gift, and that he is as secure therein as is the corresponding interest of the employer; and when the employer wakes up to the truth that as it is not by bread alone that men live, it is not for bread alone that men put forth their best work. There are many ways that the incentive may be supplied, a possible one being such modification of the proposed income or inheritance tax, if we are to have such tax, that a distribution of the fruits of success among those who, by their labor, have contributed to the success, would be accepted as a partial discharge, at least, of the tax that success otherwise would have to pay into the treasury of the government. Indeed, every honest expedient should be employed toward interesting, in the proprietorship of enterprise, the men attached to the enterprise. As between subjecting success to the obligations created by an income and inheritance tax, or to the obligations of a wider diffusion of the permanent fruits of success among those who by hand and brain contribute to it, the former is the step toward socialism, while the latter is individualism of the highest type, fitted to the times in which we live.

The detailed form that this work of corporate reconstruction should take, in accordance with the structural principles laid down, would be best performed, perhaps, by a national commission. Such commission would have for precedent the work done by Germany thirty years ago, a corporate reform that has almost disarmed German socialism, except as *it is* now an agitation against the unjust land laws of that country. Indeed, both in Germany and in France, the workmen and other employes of large industrial enterprises are rapidly acquiring individual proprietorship in the particular industry to which they are attached—a development that transplanted to this country while not even tending to diminish wages here, would be greatly helped along by the fact that wages here are higher than anywhere else in the world.

That brings me then, to the second point—the *fundamental object*, social, political and economic, of the work of corporate

reconstruction. In any treatment of this point, I shall put before you three leading facts that may not at first sight appear to have much relation to each other, but that in the end will be seen to be so co-related that they cannot be considered apart in laying the groundwork for the corporate reform that lies before us.

The first of these facts is the instinctive trait of the Anglo-Saxon, inherited by the American, and enlarged and deepened in him, to have a place that is ALL his own, in the political, the social, and the industrial structure of which he is a part—opportunity for individual achievement—liberty of individual action. In an introductory essay to one of the editions of "Parkman's Histories," John Fiske portrays this trait in comparing the colonies of France, planted by Louis the XIV, with the New England colonies. "In Canada," says Mr. Fiske, "the protective, paternal, socialistic or nationalistic theory of government—it is the same old cloven hoof under whatever specious name you introduce it—was more fully carried into operation than in any other community known to history, except in Peru. No room was left for individual initiative or enterprise. All undertakings were nationalized. Government looked after every man's interests in this world and in the next; baptized and schooled him; married him, and paid the bride's dowry; gave him a bounty with every child that was born to him; stocked his cupboard with garden seeds, and compelled him to plant them; prescribed the size of his house, and the number of horses and cattle he might keep, and the exact percentages of profit he might be allowed to make; and how his chimneys should be swept, and how many servants he might employ, and what theological doctrines he might believe, and what sort of bread the baker might bake; where goods might be bought, and how much might be paid for them. Unmitigated benevolence was the theory of Louis the XIV's Canadian colony, and heartless economy had no place there."

"The struggle between the machine-like, socialistic despotism of new France," continues Mr. Fiske, "and the free and spontaneous vitality of New England, is one of the most instructive object lessons with which the experience of mankind has furnished us. The depth of its significance is equaled by the vastness of its consequences. Never did destiny preside over a more fateful contest; for it determined what kind of political seed should be sown all over the widest and richest political garden plat left untilled in the

world. Free industrial England pitted against despotic militant France." And free industrial England won—France, with her paternalistic theories of government, retiring from the continent amidst the ruins of her failure.

The most conspicuous product of this Anglo-Saxon trait, carried forward into the experiences of the people of the United States, is our agricultural proprietorship,—the fact that the farming lands of the country are held in small independent holdings by the people who do the farming,—a trait that was recognized and helped along in the settlement of the great public domain by the pre-emption and homestead laws of the United States. And out of that wide diffusion of proprietorship has come a distinctive type of the world's farmer,—the American farmer,—undoubtedly the strong heart and the enduring hope of the republic.

Another product, until the corporation came, pre-empting for itself almost the whole industrial field, was the American mechanic—the carpenter, the saddler, the gunsmith, the whole run of men attached to the trades—who not only operated his shop, but individually owned it, and thus made a place for himself, as an independent proprietor, among the other proprietors in the community. One of the most far-reaching and dangerous consequences of the introduction of corporate life is that this kind of wide-spread individual proprietorship has almost entirely disappeared.

Still another product was the independent citizenship that came out of this instinctive trait in every man, whatever his place in the community, to have a man's place in the affairs of which he is a part—the individual character that goes with the consciousness of individual independence. Lincoln was a type of this. Lincoln would have been almost impossible in any other country. Like many other great men scattered through the world's history, he was denied the college-bred start, that in the make-up of personal character is the chief value of the collegiate ready-made formulas—was left to his own native resources to find social, moral, and political foundations on which to build the structure of his individual character. But with this difference, that in free America, the great character thus self-built, grew up a constructive and conservative character, in harmony with the best constructive energies of its day, while great similar self-made characters, in countries where political and industrial freedom do not prevail, have

usually allied themselves to the revolutionary tendencies of their times. What Lincoln was, in a superlative degree, millions of Americans, past and present, have been in only lesser degree—types of the citizenship that is produced out of a political and industrial civilization that gives to the instinctive trait of individuality room for full play. So much for the first fact.

The second leading fact is the sudden bend in the road on which, within our own time, this dominating individual trait has come. When the great new industrial domain that is the main material achievement of this generation of men, *as fast as it was building*, went into corporate form—industrial American *individually* built up transformed into industrial American *corporately* built up—a crisis in the development of our civilization was reached. There are said to be in America more than four hundred thousand corporations; when the government was founded there were less than thirty. The people in America, who are dependent upon the treasuries of corporations for their daily bread, number nearly forty millions; when the government was founded all the employes of all the corporations would not have filled one of our larger halls. The American who would in this day have a part in the proprietorship of his country's industrial property, cannot, as formerly, acquire some individual concrete thing, or set of things, upon which he can lay his hand, and say: These are mine. He who still seeks in this day to have a proprietary part in the country's industrial domain, can have it only through some intermediary corporation—the corporation being almost the sole intermediary between him who seeks to own and the thing to be owned. All told, what other changes that one can imagine, could be so far-reaching in their effect upon the underlying conditions upon which our republican idea of government was originally founded.

The third leading fact, largely the effect of the changes I have just described—the practical elimination of one-half of our population out of a proprietary share in the country's property—is based upon the statement in the last annual report of the Comptroller of the Currency, that there are in operation in the United States twenty-one thousand three hundred and ninety-six banks and banking institutions, with local deposits of twelve billion six hundred twenty-eight million seven hundred and twenty-seven thousand sixty-five dollars. This does not include redeposits by one

banking institution in another; nor does it include the large sums held by life insurance companies, in trust for their policy holders; nor is it the sum total, as some conclude, of the many deposits of a given period, thus duplicating themselves many times, in any active times; but it is the sum the banks and banking institutions owe, at the close of some designated day, on account of the deposits. What this huge total of nearly thirteen billion dollars represents *is the individual wealth of the American public, which, uninvested in the property of the country by the depositors directly, is put by them into the financial institutions of the country, from which it is, of course, eventually taken out for investment, chiefly by those who borrow it for that purpose.*

To some extent these deposits represent what we call the working capital of the country—the particular amounts that the merchant, the manufacturer, the railway company, and other individual depositors always keep on hand in bank, to meet their current needs; and to some extent these deposits are kept in the bank vaults as reserve. But compared with the whole, neither this reserve nor this working capital is considerable. Inquiry of one of the greatest of the railroads, whose securities at market values at the time of the inquiry were between three and four hundred million dollars, disclosed that that road carries an average bank account of about one million, or less than one dollar for every three hundred of its market value. Inquiry of a leading merchant shows that his average bank balance is proportionately larger than this, but considerably less than one dollar in one hundred of the value of his establishment. The largest average bank balance carried, as working capital, that I have discovered, is that of the largest manufacturing corporation of the United States—the United States Steel Company—a corporation that beginning with the raw material, turns it over again and again until the finished product is delivered to the purchaser—in that way plainly calling for the largest kind of cash capital. But even here the ratio of bank balance to the total value of the properties is only one in eighteen; so that, assuming that the enterprises of the country that require distinctive working capital are of the value of fifty billion dollars—nearly one-half of the country's entire wealth—the bank deposits representing such working capital cannot much exceed one billion of the nearly thirteen billion dollars that constitute the total of

the deposits—an estimate unaffected, too, by whether such working capital is first borrowed from the bank and then redeposited, as is often the case, or is in the first instance deposited out of the depositor's own ready means. The truth is, that the great bulk of the thirteen billion dollars—a deposit without example anywhere else in the world, and without example in any previous period of the world; a deposit that has grown more than five hundred per cent since 1880 while population and wealth have not grown over sixty per cent—is either utilized by the banks themselves, in their business of buying bonds in large quantities and selling them out at retail, or is loaned by the banks to those who are doing the actual business of the country, and carrying the corporate securities of the country. Senator La Follette, in his recent speech, was not far from right, when he said that the domain of incorporated property is in the control of a few men. The numbers the senator gave, and the names, may be incorrect, but compared with the eighty millions of people that make up this nation, the substance of what he said was true. But mark the word “control.” Senator La Follette does not say that the “wealth” of the country is in these few hands—not even the wealth upon which the domain of incorporated property rests, for its financial foundations. Were he to say that, he would be far wide of the truth.

Stated in another way, the American people have to-day in bank, a sum of money unemployed for investment directly by themselves, but employed by a comparatively small borrowing class, that nearly equals, at present market prices, the value of all the railroads of the country put together, stocks, bonds, and all; and that increased by what the people of the country individually hold, in the way of bonds, stocks and other corporate securities, constitutes almost the entire wealth on which the corporate business of the country actually rests. Indeed, were it possible for all the banks and saving societies to liquidate at once, paying back to the depositors, at their present market prices, the corporate securities into which, through the small borrowing class, a great part of these deposits have gone, there would immediately turn up throughout every quarter of the country, and in direct possession and ownership of those of our people who have saved anything at all, in addition to the corporate bonds and stocks already held by them, so large a part of the remaining corporate securities, that it could be truthfully said

that the owners of the property of America were the people of America—the property that is incorporated as well as the property that is unincorporated. Especially would this be true, were we to add to that what the clerk, the engineer, the employe attached to every industry, would get in the way of a proprietary share or dividend were an enlightened and just system of proprietary diffusion of property once entered upon.

But, while this statement shows that the American people, in the ordinary walks of life, still own the actual wealth of the country, as that wealth is found *at its sources*—the deposits in the banks being not by the rich men (who are borrowers of the deposits), but by the Americans in the ordinary walks of life—it shows also, that the industrial proprietorship of the country is not a direct proprietorship by the people at large—is, indeed, exclusive of corporate bonds, a proprietorship by the few, upon the wealth of the many, poured through the financial streams into the money centers; or as Mr. Jacob Schiff puts it, the rich men of New York are the product of the great financial reservoir that the little mountain streams are continually feeding.

Here, then, we have these two great facts: (a) The instinctive trait of the American to conduct industry along the lines of industrial liberty, and to have a *direct individual* part in the industry thus created; and (b) the almost complete submergence of that trait, in the new great incorporated domain, in the service of which nearly one-half of our people are compelled, by the conditions of the times, to serve out their lives. And out of this have come those phenomena that already mark our industrial system and our political prospects as things altogether different from the ideas that prevailed before the corporation came.

Let me hastily run over these phenomena. First, there is the so-called trust. The life principle of the trust is the gathering into one of what would otherwise be competitors—the suppression of competition. And more than from any other cause, this has been accomplished by gathering together, into the hands of the few (themselves the promoters of the so-called trusts) the financial resources of the entire country. Can competition be substantially restored until the capital of the country, springing as it does from every quarter of the country, and from the energy and frugality of all her people, is at the call, not of those who would

suppress competition, but of those who would encourage it? And what hope is there that competition will ever be substantially restored until the corporation, the only medium through which capital can be effectually wielded, becomes in the eyes of the people, *a trustworthy medium through which to work out the people's instinct to have a direct individual part in the proprietorship of the country.*

Secondly, there is this other phenomenon, largely economic, the inherent liability, as things now stand, to sudden and unreasoning panics, such as is illustrated by the panic of last autumn, the industrial effects of which are still upon us. Let me illustrate what I mean by taking the example of a manufacturing concern that six months ago was one of the largest in its line, and one of the most prosperous in the country. To-day it is in the hands of receivers. The change is not due to loss of property, or loss of business orders; its property is the same as before, its business orders almost as large as they were before. The change was due solely to the fact that when the recent wave of financial uncertainty passed over the country, this concern was doing business, not on the stable basis of a paid-in capital, as would have been the case had its capital been invested capital, but upon the basis chiefly of a borrowing capacity at the banks—a borrowing capacity always uncertain and fluctuating, which, in the case of this concern, was cut down in a single day from three millions to two millions, thereby as effectually cutting down the productivity of the concern as if a million dollars worth of its property had been suddenly lost by fire or other catastrophe. Indeed, outside a few hundred thousand dollars represented by actual invested capital, the entire property and equipment of this concern, was this fluctuating borrowing capacity at the banks.

Now one of the most important business facts that stare the country in the face to-day, is the fact that this business concern and its troubles, are typical of hundreds of other concerns and their troubles, throughout the country. The banks, taken as a whole, are sound; no banking system was ever sounder. The people in the ordinary walks of life are not in debt; never before has this class of people been so free from debt. The people in the ordinary walks of life are richer in their own right than they ever were before. It is the people in the ordinary walks of life who have furnished, and who

still own, as I have already said, the nearly thirteen billion dollars of bank deposits upon which the business and corporate activities of the country have chiefly drawn for their financial foundations; and were the banks to pay off these people, not in currency, but with the commercial and corporate securities into which the bulk of these deposits have gone, the proprietorship of the country—the direct proprietorship of the commercial and corporate enterprises of the country—would be in the immediate possession of the people free from debt. There has been no general over-production, such as in 1893. A foreign trade, constantly expanding, lies open before us. All the normal conditions for continued prosperity seem to be in sight. Yet during the past few months industrial activities have greatly narrowed; and for a year or so, as in the case of the business concern to which I have referred, are bound to continue narrower than through the years just past—bringing along with this condition of things, as one of its direct results, greatly narrowed profits and a narrower labor field.

In looking for the cause of all this, there are many who blame it upon our currency system—upon what they call the inexpansibility of the currency; others blame it on the rich men of the country—an artifice of Wall Street, they say, to counterfoil the policies of the President; and still others blame it on the President—the legitimate outcome, they insist, of the policies for which he has been standing. In my judgment, none of these are the real originating causes. A currency as expansible as any sane statesman or banker ever advocated, would not have prevented the disturbance that has taken place. The rich men of the country have never been foolish enough to deeply imperil their own interests that they might counterfoil the political plans of another. And the disturbance would have been just what it is, other conditions remaining what they are, had Cleveland, Harrison or McKinley been President instead of Roosevelt. To reach the originating causes, the search must go deeper.

The real cause that lies at the bottom of this industrial disturbance, is the same cause that has lain throughout all our years of prosperity, at the bottom of the people's unrest in the midst of prosperity—the *tremendous shift that has taken place in this country, away from individual participation by the people of the country in direct ownership of the industries of the country.* The fact that though our great industrial structures, railroads, manufacturing con-

cerns, commercial enterprises, are built in large part upon the wealth of the *ninety and nine* deposited in the banks, their immediate financial foundations are the capacity to borrow of the *one*, who borrows these deposits from the banks. The real cause of this shift away from direct individual investment—this shift of our industrial structure from the solid basis of a stable, paid-in invested capital, to the sands of a capital fluctuating with the money market, is the *inherent ineffectiveness of the present-day corporation as a medium of ownership*—the corporate untrustworthiness that prevents the people in the ordinary walk of life from making any direct individual investment in corporate enterprise. But for this, much of the thirteen billions now on deposit, would be in the direct ownership, by the people at large, of our great corporate properties. But for this, the capital that carries our great corporations, would be a stable capital, unexposed to these waves of uncertainty that periodically sweep over a people whose possessions are largely in the keeping of others. But for this, the banker himself would be saved the temptations under which some of them have fallen. But for this, the money centers of the country—the places where individual accumulations are transmuted into property investments—would be, not in Wall Street wholly, but largely in the neighborhoods in which the accumulations arise. But for this, the disturbance that now encompasses us would not have been.

Then, again, out of these new industrial conditions have come this other phenomenon, not economic merely, but social and political—something that goes to the foundations of our future as a republican people—the *distinctly unfriendly attitude of the American mind toward everything that is incorporated*. For failing to distinguish between the corporation abstractly, as a medium through which to wield our national energies, and the particular corporations that have abused that function, we look upon incorporated property, merely because it is incorporated, as the foe and oppressor of the individual man. Realizing that as things are now, few of our farmers, and few of our working men, and few of our small business men, and few of our clerks, have any direct part in corporate proprietorship, we regard corporate proprietorship as inherently an alien proprietorship—something apart from the people at large. Were you to ask if there were not a domain of proprietorship still open to the farmer who wishes to transmute the prosperity of the

year, into a property that is permanent, I must answer, yes, the farm lands of the country; but the farm lands only. Is there not a domain of proprietorship still open to the working man and the clerk? Yes, the savings banks and the little homes; but these only. Is there not a domain of proprietorship open to the ordinary business man? Yes, the little individual business ventures; but these only. In the great incorporated domain—that growth of our country which more than all others combined represents the country's growth—neither the farmer, nor the working man, nor the small business man, has either practical opportunity or interest, other than as incorporated enterprise may affect prices and wages. And it is upon these unrepudican foundations—these unstable sands—that the American corporation, as an American institution, now rests.

And what is the result? An open field to every species of enthusiast or demagogue to successfully appeal to a people's natural jealousy of anything that is alien, any institution that is not a part of their own life and aspirations, any development of either power or property that does not include and represent the people themselves. Under the people's demand that the so-called trusts be curbed—a demand that has some reasonable foundations—there runs a feeling much deeper than any mere fear of what, in an economic way, the trusts may do. Under the demand that the trusts be punished, there runs an instinct much deeper than a mere determination that the law be enforced. These demands are sincere and natural, but they do not account for the widespread feeling against the corporation that now prevails. That deep and widespread feeling is the offspring of the national consciousness that *somewhere*, in the fundamental relations of the people at large to the great new industrial domain, there is *something* that is not in accordance with our republican institutions—that in some way, in this new great domain, one of the deepest of human instincts is suffering denial.

A few weeks ago, at Boston, the ex-governor of one of the great states, in a brilliant speech, took the President to task for what he considers the President's mistaken policies. But like the waters of the artificial fountain, played upon by electric colors, the speech ceased to be impressive the moment it was uttered—brilliant though it was, it failed to reach solid ground. The President, on the other hand, overheated as he becomes in some of his

antagonisms, indiscriminating in some of his denunciations, subtle and purposeful as his appeals are, nearly always reaches solid ground. Whether he knows it or not, he always starts from, and comes back to, the abiding national consciousness, that somewhere in the great new industrial domain in which we live and move, there is something that is wrong—that somewhere some human instinct is being pinched.

Somewhere, something is wrong. The President says that fundamentally the country is sound. Governor Hughes says that, morally, the country is sound. So it is, if by that we mean that fundamentally and morally the *purpose* of the country is sound. But what government is to political power organized, the corporation has become to modern industry organized. The corporation is the organized form through which modern industrial energies exert themselves. Would that republican form of government be sound that denied to the people, fit to exert political power, and instinct with a desire to take part in it, all practical opportunity to take their individual part in it? Would a government, republican in form, but oligarchic in actual outcome, be a sound form of republican government?

The corporation, as the organized form of modern industry, taps the country's individual resources, from end to end, for the financial foundation on which to rest the fulfillment of its energies. Is a corporate form of organization sound, that, dependent on the people for the resources that give it life, denies to the individual creators and owners of these resources, instinct as each individual is with ambition to have a direct individual part in his country's industries, all practical opportunity to thus take part? Incorporated property utilizes nearly one-half of our wealth, and determines the place in our civilization of nearly one-half of our people. The promise of the law to the ear is that it is open to all on equal terms. But every man who knows anything about corporations knows, that in actual practice, this promise is broken. Can any corporate form of industrial organization, not actually open to all on equal terms, endure in a land where all the other institutions of government are open to all on equal terms? Can any corporate form of industrial organization, oligarchic in practical outcome, stand side by side with a political power wielded by the people at large?

Do not misunderstand me—there is no way known before men or under heaven to legislate men into the possession either of *power* effectually exercised or of *property* securely possessed. All we can do, by legislation, is to open the door—to hold out the opportunity. But that done—honestly, effectively done—as it has been done in opening the door to political power—I rely on the instincts of the American to do the rest.

I once stood on a battleship, marvelling at what the lightnings did. They lifted and lowered the anchor; they ran messages from the pilot house to the engine room; they lifted the ammunition from the magazine to the guns; they loaded the guns; leveled them to the mark aimed at; fired them; they lighted the ship when in friendly waters, and darkened her when in the waters of the enemy. They swept the seas with their Marconi equipment for a thousand miles around in search of whatever tidings the search of a thousand miles would bring; and through it all, the lightnings remained as free as the lightnings that play in the summer clouds. The genius of man has not harnessed the lightnings—they work out his task only because the genius of man has given them the material agency, the open door, through which to work out their own inherent instincts.

What government is to mankind politically organized, I have already said, the corporation, as an intermediary, is to modern industry organized. It is the pride of free institutions that they have diffused among the people the political power of the mass. But that is not the *secret* of successful free government. The secret of the success of free government is, that by opening to the people the door to power, there has been awakened a universal instinct among men that, in turn, created the capacity to successfully exercise that instinct; so much so that it can be safely said that successful government of the people, by the people, for the people, is not the product so much of the institution itself, as of the opportunity that the institution opens up. What can be done with the political instincts of mankind, can be done with this other instinct so deeply imbedded in human nature. In Europe, the work of getting the people at large into direct participation in the proprietorship of industrial properties has already begun—the pressing problem with their most enlightened statesmen being now, how to get back the people into the proprietorship of the soil.

In America, the people at large have always been the direct proprietors of the soil—the pressing problem here being how to get back the people into direct proprietorship of the industries.

It is for the reconstructed corporation then, as *an effective trustworthy medium through which to work out one of the deepest and most insistent of human instincts*, that I speak. I hold it up as the ultimate fundamental solution of the merely economic problem of competition. I hold it up as the final antidote of the kind of industrial disturbance in which we now are. I hold it up, above all other considerations, as the only fundamental and lasting cure of the social and political problems that are pressing upon this generation of men to solve.

This brings me then to the third topic of this address, the "Scope and Limits of Governmental Interference in Corporate Construction and Management." The first inquiry is the scope and limits of government, independently of whether the government be that of the state or nation. To flesh and blood, born out of the loins of nature, and entitled, independently of the state, to life, liberty and the pursuit of happiness, the chief function of the state is that of the organizer and preserver of justice and order. Of flesh and blood the state is not the creator. The corporation, on the other hand, born out of the loins of the state itself, is an artificial person, created by the state. It has no natural rights. Between the corporation and the state, the relation is that of creature and creator; and because of this, apart from the obligations of the state to carry out its engagement to its corporate creatures now in existence, the state is under no obligation of any kind, constitutional or legal, to the corporations of the future—may make them, may mold them, may withhold them altogether, according to its will. To corporations now existing, the state is bound by the doctrines of vested right—to the corporation of the future, the state is not bound at all.

This, however, is purely a juridical view. From a practical standpoint it is not the one in which we are interested; for as an agency of industry, and a form of proprietorship, the corporation is here to stay, and the corporation of the future is as certain to follow the corporations of the present as the men and women of flesh and blood of the future will succeed to those who are here now. So the inquiry is not so much to what limit the government

may lawfully go in interference with the management of existing corporations, or what government may lawfully do in the construction of the corporation of the future, as, bearing in mind the kind of civilization of which we are a part and product, what *ought* the government do, in the way of corporate construction and management. What *power* should be given to government, what *restraint* should be laid upon it.

The theory of our government, as I have already shown in my quotation from John Fiske, is that the greatest attainable industrial development is only to be had under the greatest attainable liberty to the individual man—that it is in the atmosphere of freedom that men do their best thinking; organize what is at hand with the best results; do the best work. And that conception of government in relation to industry is nature's law also; for, when, at the beginning the earth, the sea, and the sky were created, there was put into each capabilities only—into the earth the waiting fuel, and the waiting ore, the primitive fruits and grains and the chemical properties that have developed them; into the sea the potentialities that steam has accomplished; into the sky the waiting lightnings—capabilities that became the commercial and industrial actualities of our age only because, at the same time, there was put into the brains and hearts of men capability to find out and utilize the capabilities of earth and sea and sky.

Thus applying the capability of brain and heart to the uncovered capabilities of nature, the world of human industry began; and thus it has gone forward. In the infinite possibilities of nature the forces that have been utilized in building up our industrial civilization might have been revealed to men without the labor and the delay of individual initiative and research. But they were not. Without free and spontaneous individual initiative and research, these forces would never have been uncovered. But for the inexorable necessity of uncovering them, by his own efforts—as children are left by wise teachers to work out their own problems—the individual himself would never have become the thinking, aspiring, developed being that he is. Indeed, the free man, and the industrial world that surrounds him, are each outgrowths of the same great plan of the universe—each, in a great measure, the product of each other. *In that fact alone*, is the sufficient proof that industrially, as well as morally and politically, men were *intended* to be free.

The corporation, to the extent that it is a thinking, organizing, working entity, has the same title to, and the same underlying need of, freedom from external interference; for within the limits I have named, the only difference between the corporation and the individual is, that instead of one brain thinking, one brain organizing, one set of hands at work, as in the individual, there are, in the corporation, one, ten, or a thousand brains at thought; one, ten, or a thousand brains organizing; ten thousand sets of hands at work—all converging to one common end. Certain it is that the character of interference, from the exterior, that would harass the individual, hobble him, deaden him, would just as surely harass the associated individuals that the corporation represents, each doing its appointed part in the common undertaking; so that the governmental interference, which if applied to the activity of the individual, would tend to destroy his productivity and usefulness, would, in my judgment, be a kind of interference, which applied to corporate management, would be a step backward, instead of forward, in the field of industrial development.

I could easily, had I the time, illustrate this kind of interference from current legislative and administrative proposals—proposals which if put into execution, would put upon the mental activity and ambitions of the country governmental fetters that would reduce commerce and industry to the conditions of slavery that Louis the XIV so disastrously imposed upon his subjects. But without stopping now, for that purpose, I pass from these, the *limits* of governmental interference, to the *scope* of governmental control that can be exercised *without* hampering industrial freedom—the kind of control that will *promote* industrial freedom by opening to the people of the country a proprietary stake in the industrial activity of which they are the chief sustaining resources.

Three considerations present themselves at this point, differentiating the corporation from the individual, and in consequence, corporate industrial freedom from individual industrial freedom. The first and greatest of these considerations is the function of the corporation, as the organized form of holding industrial proprietorship, and the necessity that it become a trustworthy medium to that end. This I have already treated at length. It constitutes the burden of this address. From the standpoint of economics, from the standpoint of business stability balanced, from the moral, the social,

and the political standpoint, this is the paramount consideration. And in the structural principles for corporation reconstruction that I have laid down, there is no more governmental interference with individual industrial productivity, than sound systems of government, or sound elections, or sound primaries, can be said to be governmental interference with the political liberty of the individual and his political productivity. In neither case is liberty or productivity repressed. In both it is simply giving to individual liberty and productivity a sound organism through which to express itself—the dynamo and the wires that gather up and convey the individual potentialities, from conditions where they are comparatively inactive and useless, to conditions where they effectively accomplish results.

The second respect in which corporate freedom is differentiated from individual freedom, is in the case of those corporations, such as railroad and other public service corporations, that bear to the public, on their external or business side, a relationship that is not wholly an arm's length relationship—the relationship of mutual obligations growing out of the nature of the grants under which the business originates and is carried on. Here, in addition to seeing to it that the corporation is a trustworthy medium for the diffusion and protection of proprietorship, it is within the scope of government to see to it also that the mutual obligations, under which both the public and the corporation rest, shall be faithfully performed. The method adopted, thus far, has been such administrative commissions as the interstate commerce commission at Washington, and the public utilities commission in New York. Without stopping to elaborate on this form of government interference—for I do not wish, by diffusiveness, to lose the emphasis I am trying to lay upon the corporation as a trustworthy medium of *proprietorship*—I shall only say that government interference, on this external or business side of public corporations, should be limited to those points at which the public and the corporation touch each other as actual parties to the grant, such as equality of treatment, adequacy of service, reasonableness of compensation. Government should in no degree—the corporation being organized and conducted as a trustworthy medium of proprietorship—attempt to dictate or control the business judgment of its managers. To insure that both the corporation and the public are held to this reciprocal obligation,

as well as to secure despatch in the settlement of differences between them, my judgment is that the deciding body ought to be a judicial tribunal, or at least a quasi-judicial tribunal such as the commissions in Canada and England, having nothing to do with, and no responsibility for, the initiation of complaints. In that way alone, it seems to me, can we preserve in this branch of our state polity the axiom of justice underlying every just system of government, that no man can, at one and the same time, be prosecutor and judge.

The third respect in which corporate freedom is differentiated from individual freedom is in those cases in which corporate organization, though not of the public character last named, rises to the point of private monopoly. So many foolish things have been said about monopoly—so many demagogues have ridden the word out of breath—that its real significance in English and American polity is sometimes overlooked. Constant as has been the attachment of our governmental system to individual industrial freedom, there never was a time when the freedom of one individual, by combination with the freedom of others, was allowed to go to the point of monopoly. Against individual freedom, culminating by combination in monopoly, the common law was just as vigilant as our anti-trust laws. Indeed were the Sherman act to be amended so as to penalize only unreasonable combinations, it would be but a re-enactment into national law of what the common law upon that subject has always been; from which it follows that it is within the scope of government to prevent or control, through corporate organization, what government has always undertaken to prevent or control, through combinations effected under other forms, between individuals. And my own judgment is that this function of government would be best administered by giving to government, in addition to its power to curb monopoly, after monopoly has been accomplished, the far more effective power of prevention before the charter is granted—a preventive method that falls in with the structural principles laid down in the opening of this address.

Thus far I have spoken of government interference independently of whether it be the interference of state or nation. That under our system of dual government the states may do the things I have suggested, if government may do them at all, goes without saying. Can this power be put also into the possession of the

nation, in respect of corporations whose business substantially is not within a state, but overrunning all the states? And can this be done *without a constitutional amendment?*

That the nation can, as the constitution now stands, enter upon a national policy for corporations engaged chiefly in commerce between the states, I have no doubt. There is no doubt, to begin with, that power to *incorporate* is in the federal government. The national charters to national banks, and the national charters to trans-continental railways, are examples of that power. Indeed the question is not as to the power of the federal government to incorporate, but the power of the federal government over the *subject matter* with which the proposed federal corporations would have to deal.

There is no occasion, it seems to me, to look for federal power over the subject matter in any out-of-the-way corners of the constitution, such as the clause to establish and regulate post roads. All the power that is needed stands plainly forth in the commerce clause of the constitution. True it is, that until the last few years, the commerce clause has not been invoked in support of such power. But that is not because the grant was not originally there; it was because commerce did not yet need the grant. It is not the commerce *clause* of the constitution that has been growing; it is commerce *itself* that has been growing. As soon as nationally incorporated railroads as instruments of interstate transportation, became a commercial necessity, the Supreme Court recognized them as instruments of interstate commerce, and, therefore, rightly incorporated under federal law. A careful reading of the beef trust injunction cases, both in the Circuit Court, and in the Supreme Court, will disclose that where in any manufacturing or commercial industry, the raw material chiefly originates in one set of states, to be manufactured in another, to be transported and sold in still others, the commerce thus resulting is commerce under the commerce clause of the federal constitution. This is all that I shall say at this time at least, upon the constitutional side of this subject, for I have already taken too much of your time, and must press on to an immediate conclusion.

Let me, in this conclusion, compress if I can into a few sentences the thought that I wish this address to stand for. This America of ours, in the embodiment of its political power, is a government of the people, by the people, for the people. Because it is such a

government, individual freedom has, without impairment, been united with centralized strength. This America of ours, as represented by its property, until the corporate form of organized property and industry came, was an America also of the people, for the people, and by the people. Because of this, more than from all other causes, the proprietary interests of America became a matter, not of class concern, as in the old world, but of genuine, sincere, individual and national concern and guardianship.

But with the discovery almost within our own time, that within this old external world, upon which mankind had lived from hand to mouth, there was an interior world of natural forces waiting to be summoned to make life tenfold easier, and more abundant for all, the corporation as *a form of organizing energy* sprang up among us. The new great incorporated domain thus raised up is already occupied, as the field of livelihood, by nearly one-half of our people, and already represents well toward one-half of the nation's wealth. Compared with other kinds of property, it is pre-eminent in the public eye. Had there come to pass *here* what came to pass in America's distribution of participation in the *powers of government* among her people; had there come to pass here what came to pass in America's distribution of her *great landed domain* among her people; had the corporate form of organizing and holding property *invited the trust and the interest* of the American people as a whole; had the corporate form of organizing and holding property held out inducements to participate as proprietors in the incorporated domain to those whose lives are bound up in that domain for a livelihood—to become proprietors as well as wage-earners—there would, of course, have been corporate questions, of one kind and another from time to time to determine; *but there would be no deep-seated corporate problem, going to the foundations of society, such as now confronts the American people.* And it is on this account that the problem, raised up by this new great incorporated domain, is preeminently the people's problem.

Thus far, in the discussion of that problem, the public mind has been divided into two camps, the avowed purpose of the one being to "exterminate" all the big corporations or so-called trusts, and the avowed purpose of the other to "regulate" them. It looks now as if, along some such line, the pending presidential election is to be fought out. Exactly what is meant by those who propose to

exterminate, I do not know, unless it be that the people of the country are to be put into a political attitude persistently hostile to incorporated industry and commerce—a political attitude that will strike the corporation a blow every time, and at every point, that opportunity offers.

Exactly what is meant by those who propose to “regulate” the big corporations and so-called trusts is a matter that but for the pending amendment to the Sherman act, said to have been formulated at conferences at the White House, would have remained indefinite and uncertain—something calculated to impress one set of minds as a big stick with which to practically put out of business the big corporations, at the same time that it was impressing another set of minds as a poultice merely, calculated to allay the people’s feeling, but resulting, in practice, in no substantial interference with the corporations as they exist to-day. If the pending amendment to the Sherman act sums up what the policy of regulation is intended to do, much of this uncertainty and indefiniteness is done away with. We know, in that case, what is meant by “regulation.” And let us see how far it goes towards solving the real problem that confronts the country.

The Sherman anti-trust act, as it stands unamended, makes all combinations and associations in restraint of trade unlawful; and this irrespective of whether the actual result of the combination be hurtful or helpful, reasonable or unreasonable—the public purpose embodied in the Sherman act, as it now stands, being that there shall be no combination or association in restraint of trade, even though it be plainly manifest that the combination or association be helpful, rather than hurtful, to the public welfare.

The pending amendment lets this Sherman law stand just as it is, against all combinations and associations that do not submit to the executive branch of the government, for its O.K., such full information respecting financial conditions, contracts, and corporate proceedings as may be prescribed from time to time by the man who happens to occupy the office of President of the United States. Failing to submit such full information, the combination or association remains unlawful, even though the result be not hurtful or unreasonable; but submitting, the combination or association immediately becomes lawful, except only to the extent that it may be unreasonable or hurtful; and, a year elapsing without complaint, becomes lawful

absolutely, without exception—the whole object of the pending amendment apparently being that upon making peace with the man who happens to occupy the office of President of the United States, the corporations, just as they now exist, may pursue without further hindrance their accustomed way.

But one looks in vain, from end to end of this scheme of so-called regulation, for any recognition that the *diffusion of corporate proprietorship among the people* would tend to solve the problems of competition, and the stability of enterprise; for any thought indeed, of corporate proprietorship diffused among the people; for any thought toward making the corporate form of holding property a trustworthy medium through which the people of the country might come back into the ownership of this growing domain of the property of the country; for any thought of the release, immediate or ultimate, of the great new incorporated domain from the exclusive grasp of that small class who, under existing corporate policies, have successfully pre-empted it, and who, under existing corporate policies, will continue to control it.

For one, a participant in the conference last October that appointed the committee to propose some plan of corporate reform in connection with amendments to the Sherman act, I reject this plan as a deceit—a promise made to the ear but broken to the hope. The reason why demagogism so often prevails over real constructive conservatism in the treatment of matters relating to the corporation, is that demagogism usually has on its side a certain human note—an indefinable sympathy with men and things—that that which passes for constructive conservatism often lacks. This pending amendment, as a solution by regulation of the corporation problem, lacks every essential human note—discloses no interest in men except as they are earners of bread and customers of the corporation—no sympathy with men as independent, aspiring human beings. It aggrandizes, beyond measure, the office of President of the United States, putting it within the power of that single officer of government to say what corporations shall live, and what corporations shall be outlawed, but it opens no door that will give an interest or stake, in the mighty incorporated domain, to the eighty millions of people upon whose energy that domain was built up, and upon whose wealth, in the last analysis, it continually rests. The paramount consideration of the hour, looked at from every

point of view, economic, human, and political, is to put the great new incorporated domain on republican foundations, *by making the corporate form of holding property a trustworthy medium of proprietorship*. But if this proposed amendment is to be the beginning and the end of the policy of "regulation," to which there is no alternative except the policy of "extermination," there are some of us who have no place with either policy.

But we need not despair. It was Disraeli who remodeled the politics of his country upon the demand, that between British India and the rest of Asia there should be a scientific frontier. In the wide stretches of corporate discussion now going on, there is as yet no scientific frontier. But the frontier will eventually be run; and when it is, on one and the same side, where they rightly belong, will be found those who are so little in earnest, on the human side of corporate reform, that they will accept nothing that is effective, and those who are so blinded by their earnestness that they will accept nothing that is practical; and on the other side will be found the triumphant common sense of the American people, awakened anew to the human note that men do not live by bread alone, and taking up anew the ideal of government of the people, by the people, for the people, but so broadened, that along with the government and the farms of the nation, the new great industrial domain will ultimately become, also, a possession of the people, by the people, for the people; for in that direction, and in that direction only, lies the road to a settlement that will be lasting.

THE PUBLIC REGULATION OF CORPORATIONS— DISCUSSION OF JUDGE GROSSCUP'S ADDRESS

BY HON. HERBERT KNOX SMITH,
United States Commissioner of Corporations.

After the very able and thorough discussion of general principles by the eminent judge who has preceded me, I do not care to take up general questions. I want to discuss simply and briefly certain details as to how certain things considered desirable are to be done. As Commissioner of Corporations I have more interest in the management of corporations than I have in their construction, for when the problem comes to me the question of construction has been largely settled—the question of management and conduct is the absorbing one.

I have no grudge against combination simply because it is combination. Combination is inevitable. The thing I am chiefly interested in is the use of the combination's power—not the existence of the combination, but the way it uses its power. There are two types of business men; they merge into each other, they overlap, but the two types themselves are very different. One is the business man, the captain of industry, who holds his position because he is giving better service or lower prices,—and that is the key to his position—because he is the best manufacturer, railroad man or salesman; because he is giving his attention to making or selling the best goods, to economies in manufacture or in distribution. That man and the public have the same interest. His success means our success. He can succeed only because he serves us better than the other man. That is one type.

The other type of man—and I know him very well in my investigations—is the man who gives his entire attention, not to improving his business efficiency, but to crippling the business efficiency of his competitor. He obtains railway rebates. The evil of railway rebates does not lie primarily in the saving of freight charges. The evil in a railway rebate is the effect on the competitor. Monopoly conditions are induced in favor of the man securing the rebate.

It is not the saving of expense; it is the monopoly condition which the recipient of the rebate especially desires and gets. Such a man as I speak of buys secret information from his competitor's employees or from railroads. He deliberately uses his best efforts to destroy the commercial and industrial machinery of others, and he gets all the profits that result because he is aiming to create a monopoly.

Those are the two types of men, and they represent the result of an evolutionary process. We are carrying on a process of evolution, of selection, in our industrial world, and it is with that process of selection that the government, I think, should concern itself. It is a matter of the survival of the fittest. The government wants to see this process such that the man who survives and becomes the captain of industry, who leads our great industrial forces, is the man of the first class I have described, the man who is trying to improve industrial machinery by improving his own, and who is not trying to cripple the industrial machinery of the country by crippling his competitor. We want to see that man survive who shares with us his profits. He will thus survive when the government brings our great financial and industrial forces under the law of equal opportunity.

The previous speaker very well emphasized the characteristics of this race as individualists. We do not ask the government to give us money and help. There is one thing we want it to give us, in the words of my chief—we want it to give us a square deal. In this matter of corporations we want the government to keep open the highways of business opportunity, to maintain that process of evolution which will bring the efficient worker to the top. It is perfectly obvious what that means. It means the abolition of unfair privileges, of oppressive measures, of unfair competition. What shall be our method of arriving at that square deal?

There are various remedies suggested. The one I feel will give the best results is the remedy of efficient publicity. When I came to Washington, four and a half years ago, I rather felt that publicity, as a cure for corporate evils, was a beautiful dream. I have changed my mind. If I could take the force of public opinion which is here to-night—if I had the power to state to you the facts of business so that you would understand them, grasp them swiftly, act intelligently on them—I would care little who made the law or

the corporation. That is the greatest force for the correction of any evil; that is the force we want to use for the control of corporations. When I say publicity, I mean efficient publicity. For this purpose there is little help in masses of figures, or rows of volumes. The average citizen, who represents public opinion, is not going to take time for that sort of thing. There is one thing he will read. Give him condensed, sharp, intelligible conclusions on business facts, that do not occupy more than a column of the newspaper, and he will read them. That it is the business of the government to do, through the agency of the Bureau of Corporations. Its work is to collect such information and present it in the shape of brief conclusions, absolutely impartial. The case is then laid before the final appellate court of public opinion, and we have no question of the decision.

The Bureau of Corporations is only the nucleus of what we should have. What is needed is a definite administrative system by which interstate corporations shall make regular reports, shall give this information as a matter of their own initiative to the government, in such shape that it can be digested by the government and placed before you for your consideration. That system will come.

We have before Congress, the Hepburn Bill, which is directed to some such action. I regret that I am not in a position to discuss that bill to-night. It would hardly be proper for me to do so under the peculiar circumstances of the case. I merely say that it represents very earnest and very intelligent effort on the part of able and honest men to arrive at a conclusion of this matter which will be practical—and which can be passed, which is also an essential to consider.

We have to go one step at a time, but in one way or another we are coming up to a system whereby the great corporations of the country, whose greatness is such that they are of public concern, shall report their operations to a central authority in the Federal Government in such a shape that you and I can form an intelligent and fair opinion of them. The corrective force of public opinion thus applied will give us the further advantage that this system will be a system of co-operation rather than a system of opposition. To-day, under the Sherman Law, the government and the corporate manager meet in collision, and that is the only way they meet, and the chief thing resulting from that sort of a meeting is friction. What we want is a system where they meet in converging lines, in conference,

in discussion beforehand rather than punishment afterwards, so that both the government and the corporate manager may come to the mutual establishment of the higher standard of business morals and the practical application of them, which is the most desirable thing in our corporate system.

In conclusion, I want to point out that this system, if adopted, means the utilization of one of the most valuable assets we have in this country. We Americans are a very practical, hard-headed race, and, on the other hand, we are the most sentimental race on earth. We are practical idealists. An ideal, I think, appeals to us more than to any other nation, and we have the practical faculty of carrying it out. Many of our great business men, our captains of industry, are in their way, idealists. The man who is working his life out at his desk as a corporate manager, who has more money now than he can spend on himself, is not giving his life and his energy simply for the accumulation of more money to spend for his own pleasures. He has some ideal in mind. It is the acquisition of power, the lust of strength. It is not mere gain he is after. It is something outside of himself. Once take that ideal which he has now, whatever it may be, lust of power, joy of success in the game, and turn that ideal toward the higher standards, toward the use of such power for the welfare of the public, and you have solved the great question as near as it can be solved prior to the millennium, because you have given a chance for human nature to work out along the lines of least resistance toward public ends.

AMENDMENT OF THE SHERMAN ANTI-TRUST LAW¹

BY THEODORE MARBURG,
Baltimore, Md.

Last autumn the National Civic Federation called a conference on combinations and trusts in Chicago. The presiding officer was Nicholas Murray Butler. He sounded the note of antagonism to the Sherman Anti-Trust Law, and that note was echoed throughout the three days' proceedings. I must confess I was surprised. I had no idea there was such widespread conviction that the time had come for a modification of the Sherman Anti-Trust Law. True, this law has been on the statute books eighteen years and only recently have we witnessed a movement for its modification. That is because the government has not attempted seriously to enforce it until within the past few years. We see what disaster has attended the very beginning of this attempt.

As a result of the civic federation conference there is a measure before Congress intended to correct the evils of the Sherman Anti-Trust Law. It is the Hepburn Bill. Criticisms upon the measure since its introduction into the house have led its friends to modify it in several particulars:

First, by leaving under the ban of the law the pooling of traffic by railroads while permitting reasonable rate agreements subject to the approval of the Interstate Commerce Commission;

Second, by providing for an appeal from the decision of the Commissioner of Corporations to the Interstate Commerce Commission and then to the courts;

Third, by so modifying the clause relating to labor as to remove all doubt about the boycott and blacklist still coming under the prohibition of the Sherman Law.

That law, it will be remembered, prohibits all combinations in restraint of interstate trade whether such combination be reasonable or unreasonable; it makes no distinction. Owing to the scale of business to-day there are very few combinations or agreements

¹Discussion before the American Academy of Political and Social Science, Philadelphia, Pa., April 11, 1908.

which may not be interpreted as in restraint of interstate trade. Many of them are thought to be necessary to the successful conduct of business in its present scope; *i. e.* are reasonable in their purpose and result. If the Sherman Law were impartially and generally enforced it would bring about chaos in the business world; the mere uncertainty as to whom it may strike has developed a feeling of unrest and concern which is inimical to the best interests of the country.

Rivalry is an important element of business, and crushing the competitor is a necessary coincident of rivalry. By superior organization or inventive genius a business man supplies commodities so good or so cheap as to cause a rival to retire from business. Has he done anything that is morally wrong? Quite the opposite. To a certain degree progress is actually dependent on him: crushing the competitor is simply eliminating the unfit. The public suffers only when the process has gone so far as to give a virtual monopoly to the triumphant party, because then the very instrument of good, rivalry, ceases to exist. In other words, while there is still no moral wrong, there does arise at this point a question of public expediency. It is on the ground of public expediency alone—not on moral grounds—that monopolies are to be prevented, if possible, by state interference. Certainly the public suffers by monopoly—and the duty of the government to put down monopoly is beyond question. The whole problem is the very difficult problem of discriminating action which will control, without ruining, the splendid business organizations that have done so much to give our country its prestige in the world of affairs.

Now, many of us have long believed that the most effective instrument in checking monopoly and keeping alive potential competition is publicity *i. e.* such knowledge of the affairs of a corporation as will enable the public to judge of monopolistic practices or unfair methods, and this is the central idea of the Hepburn Bill. The bill proposes to modify the Sherman Anti-Trust Law so as to exempt from the operation of the law, so far as proceedings by the United States lie, reasonable combinations in restraint of trade, including strikes and lockouts. It proposes to do this in the wisest way, in a negative way. As a condition precedent to the enjoyment of the benefits of the bill, corporations or associations for profit will be required to register and to furnish certain information

to be prescribed by the President, information relating to organization, financial condition, contracts and corporate proceedings. The Commissioner of Corporations is required to register all corporations or associations furnishing such information whether he approves of them or not. But after they are registered, they will be asked from time to time to furnish additional information, and if their future acts after registration are regarded as in unreasonable restraint of trade, the registration may be withdrawn. They will thus be constantly under the eye of the commissioner. It must be remembered that the bill is not compulsory. No corporation or association is compelled to give the information prescribed by the bill. But unless it does give it, it will continue under the ban of the Sherman Law, even so far as reasonable combination is concerned.

Now, what are Judge Grosscup's objections to this bill, as he stated them last night? His first objection is that the bill sets up one-man power. He complains that we are putting in the hands of the commissioner the power to stamp a corporation with legality. The term "one-man power" does not fit because the decision of the commissioner is not final. If his decision be adverse, an appeal lies, as already stated, to higher tribunals. If, on the other hand, his decision be favorable, the law department of the government is still permitted, under the terms of the bill, to differ with him and to proceed against the corporation on the ground of unreasonable restraint of trade. In other words, only "reasonable" combinations can be stamped by the commissioner with legality, and that at the risk of having his decision overturned by successful prosecution on the part of the law department. It is objected that we are setting up a bureau to do what should be left to the law and the courts. The answer is that the powers conferred by the bill are wholly negative. Under its provisions the bureau can deny certain privileges; it cannot institute proceedings against anyone nor confer definitely any rights upon anyone. With these limitations, limitations which make the powers quite different from those conferred upon the Interstate Commerce Commission and on the utilities commissions of the various states, there is a distinct advantage in partially substituting for a sweeping law which attempts the impossible, a tribunal empowered to discriminate and forewarn, a tribunal which can meet business methods with business methods.

The objections advanced are the cry, first and foremost, of the inefficient, who would break up the great industrial organizations of the day by maintaining and enforcing the present law indiscriminately against all combinations whether in reasonable or unreasonable restraint of trade. Their plea is that the principal object of all combinations is the control of prices. That is not true. The object of many combinations is profit, but that object may be reached by cheapening production as well as by raising prices. There are further combinations to effect objects wholly unconnected with prices or profits.

Other criticisms leveled against the bill represent the objections of employers whom the abuses practiced by labor unions have so antagonized that they would maintain the Sherman Law at any cost, with a view to curbing the ambitions of labor, and even crushing the labor unions completely. Such men fail to realize the vast benefits that labor unions have brought to society as a whole by raising wages and shortening hours. They fail to realize, moreover, that one of the conditions of a successful war on the very great evils practiced by the unions is that we start by being just to the unions as well as to labor not embraced in the unions, that we help labor to realize all its legitimate aims for its own improvement. Moreover, as Mr. Gompers has stated, to make labor unions unlawful is simply to turn them into secret societies with measureless powers for evil.

As already stated, the bill does not legalize anything unless it be reasonable combination. It operates only to suspend certain provisions of the Sherman Act. There is no intention to include the boycott in this exemption. But even if it were inadvertently so included, it could have no such result as legalizing the boycott, for the reason that conspiracy and boycott would still be under the ban of the common law in the separate states. Suing in courts of equity in all the separate states involves added physical difficulties but that is very different from saying that the bill, even though defective in this particular, would legalize the boycott.

The objection raised to the publicity features of the bill would be advanced against any form of publicity. In fact, the bill does not confer any new positive powers in this respect. Already at the present time powers of investigation are lodged in the Bureau of Corporations, and in two other active bodies, the Interstate Com-

merce Commission and the Law Department of the government. What return does the victim who is investigated by them to-day get? Anxiety of mind, habits of secrecy, and a growing hostility to government. Under the Hepburn Act, on the other hand, he would get a tangible benefit; in return for the information supplied he would be relieved of threatened fine and imprisonment for acts which are inseparable from business on its present scale.

Much of the criticism of the Hepburn Bill on this platform and elsewhere turns on the ever present question of centralized versus local government, a question uppermost in the public mind since the founding of the union, and one that is likely to remain uppermost to the last day of that union's existence. The fundamental consideration here, in connection with the problem we are discussing, is the utter failure of the state legislatures to deal successfully with that problem. It becomes clearer every day that the big corporations engaged in interstate trade can be controlled successfully only by an authority commensurate with the field of their activities. Improved communication has broken down state lines and the problem before us is the problem of interstate commerce. Moreover, is it true that with the exercise of greater powers by the federal government local activities are diminishing? Is there not rather a readjustment of activities without any loss of volume as regards local government? Are not the municipalities and the states themselves exercising powers which they did not exercise a few years ago? We see them turning their attention to such things as municipal ownership of water, gas and electric light, to the operation of street railways and to housing. We find them entering a much less questionable field than the above, such as the provision of free public baths, wading pools, outdoor gymnasiums and music. Under the police powers they are multiplying sanitary measures, including milk inspection and pure food laws, the suppression of smoke in cities, and are even dealing with the unsightly in the form of objectionable billboards. In the field of education the increase of local activity is enormous. Crowning the common school system we see to-day many flourishing state universities and even city universities, as in Cincinnati and New York. Corn trains are bringing to the farmer's door results of scientific work at state agricultural stations and for some years we witnessed a state actually

engaged in the sale of liquor. An example of a new municipal activity of great value is the sale of milk for infants, extending to its free distribution where necessary.

In some of these activities there is nothing whatever to prevent the federal government and the local governments working side by side. If there is any one thing that can and should be centralized it is the collection and dissemination of knowledge. Without a central organization there is danger of great waste through parallel effort in experiment and in collecting data, and corresponding waste in dissemination. As a people we have made up our minds once for all that vast empire, such as our home area alone constitutes to-day, can be maintained only if based upon healthy local government. But we are equally determined not to be so foolish as to endanger the system by carrying it to extreme, *e. g.* by denying to the central government power over problems which it alone can deal with successfully.

A further objection of Judge Grosscup's to this bill is that it lacks the human element. Now, what does Judge Grosscup mean by the human element? From the rest of his wonderfully able address, I gather that he means actual partnership on the part of labor in all the industries in which labor is engaged. Well, Robert Owen had his dreams about this a century ago. How far have they been found practicable?

Before I go on, I want to distinguish between cooperative production and cooperative distribution. The latter offers less difficulties than the former. The trouble with cooperative production is that while it may work beautifully in prosperous times, it fails utterly in hard times. When the laborer's dividends are reduced, he wants to know why, an early result being a demand on the part of labor for interference in the management. Now, productive industry is, in its nature, autocratic. The number of failures in the business world shows how rare is the talent that can handle big business operations successfully, and if you crowd this talent aside, the result will be a loss of intelligent direction, *i. e.* greater labor with less result.

If Judge Grosscup had said profit-sharing, that would have been quite another thing. You may have an institution like a great department store, where every salesman gets a share of the profits, and that may be permanent because the salesman has no certificate of

property which he can part with or on which he can make a legal or moral demand for interference. So long as he continues in that establishment he enjoys a share of the profits according to his sales. But even in cooperative distribution, if you attempt to make him part owner, what happens? Supposing to-day, in Mr. Wanamaker's establishment, each employee should be given certificates of stock; how long would all the employees in that establishment continue to be holders of that stock? Would not some of them sell it—have to sell it? Would not others, through their superior thrift, gather it to themselves, so that, as in most of the so-called cooperative stores to-day, you would soon have the few thrifty employees owning all the stock and becoming employers while the great mass of former stockholders had lapsed into salaried employees?

The difficulty is inherent. There are some things which are dependent on time and place; but to my mind, the participation of labor as an owner in production—not in sharing profits but as an actual owner—is inherently impossible, because it involves interference with the management, which is, in its very nature, autocratic.

Now, Judge Grosscup likewise referred to the tremendous concentration of industry in the hands of a few men. Some of us, at the beginning of this movement, said that while you would have great fields of industry gathered up by a few men, the net result, provided always there is adequate regulation—I lay down that one condition, provided you have adequate regulation—the net result would be less waste of human energy, *i. e.*, cheaper things or better things for the same money, so that, in the long run, human effort would be more and more freed from the necessity of producing the material things—the things which enable men to *exist*—and be set free for the higher things, the things which enable men to live.

Now what are the indications? Statistics of 1900, compared with 1890, show increase of diffusion, and despite the caution of the Census Bureau that this showing is due to completer canvass, some very good authorities believe that the diffusion is real. The statistics of manufactures for 1905 throw no light whatever on the tendency in question for the reason that they exclude the bulk of the smaller “neighborhood and mechanical” industries (three-fifths of all the grist mills and nearly one-third of all the lumber mills in the country, for example, being thrown out from the enumeration), and

for the further reason that the census does not pretend to include the professions.

Industries which lend themselves to combination are not likely ever to be broken up unless the legislator deliberately sets to work to hamper them. On the contrary, means are likely to be found from time to time to successfully combine industries which perhaps cannot be combined to-day. The point is that this very process, aided by the growing conquest of nature in every direction, will so cheapen production as to set free the activities of a large body of the people, as already stated, for higher pursuits. These higher pursuits may take the form either of handiwork to which some feeling and character will be imparted by the individual workman, a demand for which is likely to be brought about by growing wealth and culture, or of important accessions to the professions. You may have more school teachers, painters and sculptors, more men to let imagination range in the walks of letters, more men to devote their time to the science of government.

We all realize the many drawbacks that have come with the factory system. The tendency to which reference has been made will off-set these disadvantages. While there are indications that this tendency has already set in, it will naturally be a long time, possibly several generations, before it will become important. This is perhaps an optimistic view but it is an optimism which I believe to be based on a correct reading of human history.

When we analyze monopoly we find it of three principal kinds; that which has been termed "monopoly of excellence," which is better or cheaper service and goods; monopoly based upon government favor, such as a patent or franchise; and monopoly based upon control of the supply of the raw material. No other form of monopoly can be permanent.

Now, publicity will go a long way toward dealing with the abuses practiced by these monopolies. Even monopoly which starts as "monopoly of excellence" may, after it has cleared the field of rivals, resort to exactions and become oppressive. It then becomes the duty of the state to reintroduce the possibility of competition by making it difficult for the monopoly to cut prices in a restricted area with a view to killing off incipient competition while making large profits from a maintenance of price elsewhere. We are probably not yet prepared to say to the industrial corporations that

they must follow the rule of public utilities and have one price for all comers; but if by publicity we can show great discrimination in price, public opinion is likely, in the long run, to succeed in breaking up the practice. For monopoly based upon government favor, the obvious remedy is foresight, *i. e.* proper conditions laid down when the franchise or patent is granted.

The third kind of monopoly, that based upon control of the supply of raw materials, is the most difficult to deal with. Possibly there is no remedy for it except government ownership, under which such things as mines could be leased on a royalty (not operated) by the government. Such a system would place the government in control of the situation, and publicity—the publicity we are seeking to set up under the Hepburn Bill—would show exactly what are the problems we have to deal with. To amend the Sherman Law by simply inserting the word “unreasonable” would accomplish some of the objects aimed at by the present bill, but we would be throwing away the opportunity to secure publicity of a large kind, to secure it in a negative way—not compulsory—and under a system which would be automatic and would not depend on the initiative of any department or official. This device would of course result in a much greater volume of publicity than at present, and the objection that information so given to the central government might be seized upon by the separate states and used as the basis of prosecution under state statutes, is a serious objection. It is in fact the one serious objection advanced against the bill. An answer to it has not yet been found, and it is highly desirable that one should be found because the same objection would hold against any conceivable plan of publicity under the federal power.

PART TWO

The Business Situation and Anti-Trust Legislation

EFFECTS OF ANTI-TRUST LEGISLATION ON BUSINESS

BY MARCUS M. MARKS,

PRESIDENT NATIONAL ASSOCIATION OF CLOTHIERS, NEW YORK CITY.

CAUSES OF THE PRESENT BUSINESS SITUATION

BY ISIDOR STRAUS,

SENIOR MEMBER OF THE FIRM OF R. H. MACY & Co., NEW YORK CITY.

THE PANIC AND THE PRESENT DEPRESSION

BY THEODORE MARBURG,

BALTIMORE, MD.

NECESSITY AND PURPOSE OF ANTI-TRUST LEGISLATION

BY GEORGE L. DUVAL,

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THE DRUG TRADE AND THE ANTI-TRUST LAW

BY WILLIAM JAY SCHIEFFELIN,

CHAIRMAN COMMITTEE ON PROPRIETARY GOODS OF THE NATIONAL WHOLESALE DRUGGISTS' ASSOCIATION, NEW YORK CITY.

ATTITUDE OF LABOR TOWARDS GOVERNMENT REGULATION OF INDUSTRY

BY SAMUEL GOMPERS,

PRESIDENT AMERICAN FEDERATION OF LABOR, WASHINGTON, D. C.

THE POLITICAL SIGNIFICANCE OF RECENT ECONOMIC THEORY

BY SIMON N. PATTEN, Ph.D.,

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EFFECTS OF ANTI-TRUST LEGISLATION ON BUSINESS

BY MARCUS M. MARKS,

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The trust problem is comparatively a new one, having only in recent years forced itself upon the community for serious consideration. The legislation framed to deal with corporations is still quite crude, and the best brain of our people must be concentrated on the measures that will be required to regulate the operations of corporate business. For the tendency of our time is clearly in the direction of co-operation and combination. As particles of steel irresistibly fly together under the influence of the magnet, so do men naturally and easily get together nowadays in every common cause whether commercial, political, moral or social. Hence the discussion of the corporation and trust question becomes very important to the community and most particularly to business men.

The main purpose of anti-trust legislation is, no doubt, to restrain attempts at oppressive monopoly. Although in the efforts that have been made to carry out this purpose much harm has been done to the business community, it cannot be denied that the publicity given to the dishonest methods of certain corporations has had a healthy effect in restricting their operations and minimizing their influence. Loose systems of financing great institutions have been exposed and a higher standard of honor has been demanded, which will have a very wholesome effect not only on the corporations that have already been specially attacked, but on all others now in business or about to be formed. Recent revelations under the searching light of publicity have, however, unfortunately tended to cast a suspicion upon all corporations.

Let us try to be fair and entirely unbiased in this discussion. Unless we see absolutely no benefits in trusts let us avoid the use of the phrase "the trust evil," and allude rather to the abuses of trusts which admits of a corresponding phrase—the uses of trusts. Unfortunate misuse of terms has done much to cloud the popular mind and arouse prejudice and evoke legislation adverse to all combinations, many of which are good, instead of centralizing the

opposition on those that are oppressive and harmful. There has always been a discrimination against corporations. It may even be said that a different code of ethics has obtained, on the part of the public, in the general attitude toward corporations as well as on the part of the officers and employes in the use of the corporate funds. It is conceded that there is generally less scrupulous care shown in curbing the expenses of a corporation than there is in a private enterprise of the same character. Referring to the attitude of the public, who will doubt that, for example, many passengers enjoy free rides in "trust" cars, who, in other directions, conscientiously discharge every private obligation. General condemnation of trusts, such as has been brought out in the attempt to enforce the Sherman law, strengthens this tendency of men to assume an easy conscience regarding their obligations to corporations. This is indeed very harmful to the public morals, and particularly to commercial ethics.

Some of the business effects of anti-trust legislation we can already perceive; but in view of the very recent date of the development of drastic anti-trust measures, many of the results cannot yet be accurately computed, being rather speculative at this time. For example, as the court of last resort has not yet passed on the now famous Standard Oil fine, the effect of this action cannot be finally weighed. Business has felt part of the injurious effect, but the future is still problematical. As a general business proposition, however, it is safe for us to say that our most important anti-trust legislation, namely, the Sherman act, has already shown serious ill effects on business. There is no question that greater harm will follow the execution of its provisions in the future unless it is radically amended.

Business is based largely on credit. Credit, in its turn, depends on the spirit of confidence in general financial conditions. Whatever, therefore, injures this confidence, interferes with the free and peaceful dispensation of credit, and to that extent injures business vitally. Fire, flood, earthquake and failure of crop are among the unavoidable causes of financial loss, which must be borne with resignation. But it is not surprising that there is a feeling of indignation among the business men when otherwise avoidable losses are brought on by legislation, which, while seeking to remedy an existing evil, attacks a whole system to the embar-

rassment of large numbers of innocent men and women. This has been the unfortunate operation of the Sherman Anti-Trust Law. Instead of attacking only the evils of the trust it institutes a crusade against all corporations, and as business enterprises are now being carried on more and more by corporations, whatever attacks them necessarily attacks business in general. Instead of leveling its battery against *unreasonable* restraint of trade, the Sherman act attacks all restraint of trade, whether reasonable or not. It certainly cannot be said that all trade agreements are harmful. Yet under the Sherman act all parties making such agreements may be legally proceeded against.

Profit-sharing

There has recently developed in this country an active interest in plans for profit-sharing between capitalist and worker. Large corporations are beginning to give their employees a fair opportunity to become partners in the plant in which they are working, recognizing the fact that loyal efforts of the wage-earners contribute largely to its ultimate success. This tendency should be encouraged as a wise and democratic measure, which is bound to benefit, financially, both labor and capital and at the same time help to curb the spirit of discontent which arises from the seemingly conflicting interest of employer and employee. The sweeping onslaught on large corporations under the operations of general anti-trust legislation shakes confidence in these combinations and thus retards the development of the profit-sharing plan, which, if carried out generally, would help materially toward bringing about ideal relations in the world of labor.

The main ill-effect of anti-trust legislation on business *thus far* has been to retard the growth of the good and useful corporation, while originally intending to aim only at the corrupt or oppressive monopoly. The public has become timid and indiscriminating in view of this general attack, and will not now freely invest money in the stocks and bonds of corporations, even though these corporations be perfectly sound and of great economic value to the community. The result is that their activities have been seriously curtailed, throwing large numbers of men and women out of employment. It follows, of course, that this condition reduces the purchasing power of the people, and to that extent undermines prosperity.

Federal Regulation

The business community is unanimous as to the economy of corporations and combinations. Only when an oppressive monopoly exists is there an injury to the people. General federal regulation and control of corporations, with proper publicity, would prevent such oppressive monopoly. The modern industrial and commercial world is not composed of small circles in our various states, each independent of the other, but, on the contrary, business has so spread between the states of the Union, and the circles of industry are now so interlaced, that a uniform federal incorporation law or similar provision seems as necessary as the federal bankruptcy law, which now secures so much more justice to our business men and spares them the necessity of studying the varying laws of each of the states. It seems wise that those whose duty it would be to take charge of the administration of such an incorporation or registration law should be trained men whose term of service should not be affected by political changes. Professor Taussig, of Harvard University, expressed himself on this subject on October 24th last as follows:

"Careful administration and continuity in administration are called for. The bureau of corporations has made an excellent beginning. Both this bureau and the Interstate Commerce Commission must be completely divorced from partisan politics and must be officered by able, upright and experienced men. The term of service should be irrespective of changes in the presidential office, and the positions should be made dignified and attractive both in salary and in permanence of service."

According to the general consensus of opinion the Sherman Anti-Trust Law should be so amended that with proper registration and publicity, reasonable agreements may legally be made by labor unions, by farmers' organizations and by associations of business men. At present, there is a general uneasiness as to the extent to which such reasonable agreements may be interfered with. Our laws should not be tyrannical or oppressive. Honest enterprise should not be hampered by legislation, nor should the people of a free country have cause to look with fear upon the operations of government, so long as they are doing nothing detrimental to the interests of their neighbors. Unjust laws, the operations of which

men feel it proper to circumvent, cause a loss of respect for law in general. One who breaks an unjust law will more easily be tempted thereafter to break even a just one. Let us make sure, therefore, that our laws are just.

Future Effects

Weighing the immediate effects of anti-trust legislation or procedure on the business of the country, it must fairly be conceded that the havoc wrought by the recent crusade far exceeds the good effects thus far shown. But, looking beyond immediate results, may we not reasonably expect that after business adjusts itself to new conditions, the net result will prove to be good? There will in the future certainly be a sounder basis of calculation of values. The fittest corporations having survived, new confidence will soon be evidenced and be justly merited. There will be more publicity, more stability, more morality. The prejudice against the trust as such will gradually but surely disappear, when the personnel of the management is of the high character that will be rightly expected by the public. The new light that has been thrown on the actions of some of our corporations has revealed situations which have aroused the people to join in a loud cry for higher standards of ethics in large business enterprises. If, as we expect, that cry is heeded, the effects of the present anti-trust legislation on business will in the end be not only of financial value to the community, but still more precious in elevating the ideals of commercial ethics. This change will affect not only the lives of the business men of to-day, but will have a good influence on the thought and conduct of the young generation now growing up and soon to shape the commercial future of our nation.

CAUSES OF THE PRESENT BUSINESS SITUATION

BY ISIDOR STRAUS,

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If it were as easy a matter to answer questions as it is to propound them, scientific men would not be held in such high regard. I fear, however, that we embrace under the heading of the sciences some subjects which, owing to the difficulty of setting up a standard, and the conflict among those who are recognized as high authorities, we are compelled to class as very inexact. Political science and political economy I venture to assert come under this head.

If fifty experienced bankers and business men were each examined before a judge, without one hearing what the other said, and the judge were asked to give his verdict as to the cause of the recent panic based upon the evidence thus submitted, I believe he would find it as difficult a problem to solve as any which had ever engaged his attention. And yet this is a concrete question which it seems at first blush should not offer such difficulties. No country has been free from panics. A crisis is reached periodically in the economic conditions of every land, but it seems to me that in no civilized country do conditions reach so acute a stage when disaster overtakes commercial prosperity as with us. And yet we are perhaps the richest nation in the world, blessed with more natural resources, greater wealth per capita, and with a population which certainly is second to none in inventive genius, energy and enterprise. Why is it, then, that a crisis develops with us conditions that no other commercial people have to face?

There is an adage attributed to one of the original Rothschilds. When he was accosted by an excited member of the Stock Exchange, at a critical moment, with the remark that the scarcity of money then prevalent would bring ruin to all industries, he is said to have replied: "Oh no, money is not scarce: securities are scarce." What did he mean to convey by this statement? Nothing else but that the man who was complaining of the scarcity of money did not

know that he could have all the money he needed if he had the proper security to offer.

And such is practically the condition in every financial center of the civilized world except ours. Last October and November, all of our banks practically suspended payment. Many a manufacturer, merchant and financier was unable to procure the necessary funds to carry on his enterprises, regardless of the securities which he had to offer, and the action and reaction of this plight accentuated the acuteness of the situation and intensified the crisis far beyond what it would have been if there had been no currency famine—for it was currency and not real money that was wanted.

I do not mean to say by this that with a perfect banking system, or a more perfect one, such as the leading European nations possess, panics would never occur, but I do say that with this unpardonable condition eliminated, much of the havoc played by a panic would be averted and normal conditions more quickly restored. And yet, fresh as is the memory of the havoc wrought during the last few months, the commercial and financial powers seem to be so much in conflict as to what steps should be taken in the revising of our banking laws that there is grave danger that nothing at all will be accomplished, simply because Congressmen are confronted with a situation which enables them to say—how should we know what you want or what you need when your wiseacres and your so-called experts cannot agree among themselves.

While the last panic was probably the severest that this country has experienced within the memory of any living man, we fortunately were not confronted with one phase of mistrust which was the chief factor in creating and prolonging the disaster of 1893, namely, the question of our standard. Then we were threatened with going to a depreciated silver basis. Still the last crisis was more acute, because the commerce of the country had grown tremendously; therefore the amounts involved were so immense that the fear of a currency famine produced such mistrust that the hoarding of it and its withdrawal from the banks, by frightened depositors, plunged every center into such a depth of despair that the sentimental effects created the gravest feature of the panic.

Remove from the minds of the community the fear that there is not money enough to go around, so that no one will withdraw from the banks what he has no use for and hoard what he is glad

to return the moment confidence is restored, and you will eliminate from any crisis in the future a gravely disturbing element which seriously aggravates and intensifies the acuteness of the situation.

Perhaps there is no country which goes to the extremes, either of prosperity or adversity, that we do. When times are prosperous and the demand for all sorts of commodities appears to be insatiable, the manufacturer enlarges his plant, the merchant extends his undertakings and the railroads try to build apace all of them unmindful of the fact that sooner or later there must come a halt to continuous, progressive growth and power of consumption, which will necessarily compel reduced production. In older countries, they are more conservative, consequently do not develop so rapidly nor lay themselves liable, as we do, to the disastrous consequences of a contraction in industrial and commercial development.

It therefore behooves us to disseminate a sentiment of greater conservatism, so that we will be content to grow by easier and steadier stages, and not expose ourselves to the danger of any setback which may prove a deluge that will sweep away in a short time the up-building of years. In other words, we must manage our affairs on such lines that when seven fat years have been enjoyed, one lean year will not consume the accumulation of seven fat years, for lean years always have come and always will come, and it is incumbent upon every prudent man to realize that while in prosperous years, when money is easy and credit without limit is at the command of those who merit it, it is unsafe to conduct business on too extended a basis, so that a temporary shrinkage in ready capital will enable him to fall back upon his own resources until the clouds which overhang the horizon are scattered.

It is true that the spirit of optimism has been the mainspring which has spurred the progress of this country with a rapidity which the annals of no other country show. But energy and push when crowned with success year after year engender a dare-devil frame of mind that sooner or later is apt to expose the shrewd planner and successful executor to dangers which play havoc with them and with their confiding followers.

Our archaic banking system is answerable for such irrational conditions as developed during the panic of last November and December of which the following is a fair example. With rates of exchange on Europe, that under ordinary circumstances would

have rendered the shipment of specie unusually profitable, we imported something like \$100,000,000 in gold. That was brought about through a currency famine, which placed bank checks at a discount, or, as it is more commonly but erroneously expressed, currency at a premium. The most optimistic view prevailing at the time construed this importation of gold, if not entirely, at any rate to a large extent, as a temporary loan which would result in its exportation again as soon as our monetary conditions became normal. More than three months have elapsed and not a dollar of the gold has left our shores.

As we look back, however, the solution is easily found. Our exports during the months of November, December, January and February exceeded our imports by something like \$450,000,000. This was brought about through a tremendous reduction in our importations, owing to merchants anticipating a diminished demand, on the one hand, and the necessitous conditions which stimulated our exports on the other. This alone, if there were no other proofs at hand, would clearly demonstrate our tremendous reserve resources and show clearly and forcefully how we are handicapped by our defective banking laws.

It has often been predicted in the past that New York City in the not far distant future would become the exchange center of the world. The experience of the last few months, however, sets back by a number of years the possibility of the consummation of this hope. So long as our money market is exposed to such vicissitudes as the experience of the last crisis brought so prominently and graphically before the world, we cannot come into our own, and we will still have to use the letters of credit on London and other European money centers for a large portion of our foreign commerce.

If a merchant desires to import goods from South America, or from China or Japan, to be drawn for at sixty or ninety days, as is the custom, such a credit authorizing the draft to be made on London or Paris is as good as the cash. The same sort of credit issued on New York is not as good as cash, as the foreign banker negotiating the same would, in making his rates of exchange, have to speculate upon abnormal conditions that might confront him after having sent the draft to New York, these would produce a rate of discount that might entail a loss much greater than the.

profit he could make in the purchase of such a bill of exchange. On the other hand, the same transaction based upon a sight draft on New York would compare favorably with a similar transaction in any other monetary center.

So you will observe that the uncertainty of the monetary situation which a time draft might meet when reaching New York City practically eliminates it from the category of an exchange market, and the manifold conditions and considerations that enter into commercial transactions ramify in so many directions, of which this is but an example, that we must be content to take a second or third rate position as a financial center until we can place ourselves on a basis of sound banking, such as that on which the commerce of England, France, Germany and other modern commercial nations rests.

In conclusion I cannot refrain from adding, as a merchant of nearly a half century's experience, that the pessimist who desires to pose as a prophet had better seek another country than ours. We undoubtedly have suffered and are suffering from conditions which seem to be inseparable from a young and vigorous nation. If bad legislation could have definitely checked our progress, we surely would not have arrived at our present marvelous development. But as no man, or no human institution, is perfect, both should be measured by the balance struck after deducting the vices from the virtues, and this balance, I believe, justifies us in looking at the future with cheerful resignation, in a hopeful, yes, optimistic spirit.

THE PANIC AND THE PRESENT DEPRESSION

BY THEODORE MARBURG,
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To accept too freely the theory of periodicity of panics is apt to make us fatalists and careless of our methods and laws. It is safer and more helpful to assume that each recurring panic has its own special causes and then to endeavor to ascertain these causes. Each panic teaches us something new and this accumulating experience should in time enable us to prolong the interval of recurrence if not eventually to prevent the recurrence entirely, just as epidemics of disease, formerly thought inevitable, are now prevented.

In connection with the panic of 1907 it is difficult to discover any widespread speculation or overproduction. An examination of stock exchange lists shows that the highest quotations for many leading railroad stocks, such as the Pennsylvania, Louisville and Nashville, Northern Pacific, Chicago and Northwestern, Denver and Rio Grande, Missouri Pacific, New York Central, New York, New Haven and Hartford, and Texas and Pacific, were recorded in 1901-02. From that time down to the panic of 1907—a period of five years—there occurred a considerable shrinkage of market value in the face of increasing earnings.

Overproduction we find in a few commodities, such as copper and lumber, but the list of such commodities is short.

Another recognized cause of panics is large investments in securities which are not immediately productive, such as was the building of the trans-continental railways at a time when there was little business for them. Have we witnessed any such phenomenon in connection with the recent panic? The incorporation of private industries and the listing of their securities on the exchange effect not a transformation of circulating capital into fixed capital, but rather a transfer (when the securities are marketed) of capital from the hands of one set of men to another. Increase of railroad trackage and cars, and improvements of terminal facilities, cannot

be put in the category referred to, because, until the panic came on, the business was waiting and these improvements were immediately productive. The calamitous fire and earthquake losses of the past few years, coming as they did when labor was fully employed, must of course be regarded as diminishing productive capital. For the time being we must likewise so regard the Panama Canal and the uncompleted tunnels entering New York. But where capital is concerned the recuperative process is quite rapid. Not all the happenings referred to came together and, moreover, they acted upon, all told, such a small proportion of our vast working capital that they could have had but little effect in the direction indicated.

To explain the panic of 1907 we are forced, then, to look for causes other than the usual causes of panics. One of them we find in the strain placed by legitimate business enterprise upon the world's money supply, a strain due largely to the great opportunities of our day. For this difficulty there is no visible remedy. To endeavor to find a substitute for money in something not limited by nature is to court trouble.

But the panic was largely centered in our own country and its origin must be sought principally in local conditions. Turning to them, there immediately appears as chief among them the attitude of the federal and state governments toward a most important industry, namely, the railroads. It is probable that the attack on the railroads was the most important single factor in producing a state of mind which made possible the panic of 1907. Unquestionably grave abuses existed, but these abuses may be classed largely under the head of conduct and were unconnected with the question of reasonable rates. The people were suffering from inadequate facilities more than from high charges. They were suffering from discrimination, which favored particular interests. The interest of the public lay distinctly in the direction of permitting the railroads to continue prosperous and then forcing them by law to make use of their profits to improve the service. In proceeding to attack railroad earnings we simply postponed the day of needed improvements, for the double reason that when earnings are inadequate the railroads can neither make improvements out of surplus earnings nor command sufficient confidence in their future prospects to enable them to borrow. If this reasoning be correct, it follows that one of the effective steps to recovery

is to change the public attitude toward railroads, to let them earn money and force them to make the proper use of that money.

The next step in bowling over the investor, and with him the laborer and the public generally, was the extravagant fine on a single industrial trust. A fine such as that imposed on the Standard Oil Company is out of keeping with the spirit of modern law, which is remedial, seeking cure and prevention, and subordinating the idea of retribution and revenge. The heads of these big corporations have frequently been termed knaves; they have seldom been charged with being fools. A fine the mere fraction of that actually imposed, together with an indication of what the maximum fine might have been on all the counts, would have demonstrated effectively to its managers the power of the government to ruin the Standard Oil Company if it failed to obey the law, and the desired end would have been attained without such disastrous consequences to the stockholder and the public.

The remedy for the abuses of industrial trusts probably lies in the direction of federal control, control through license. The moment corporations are required to register under a federal statute, the government may require certain information of them, and the possibility of great reform at once appears. When attended by publicity, compulsory investigation into illegal and unjust practices tends not only to correct the illegal practices, but the unjust practices as well, and that without resort to proceedings in a court of law or even in a court of arbitration. Possibly nothing but the knowledge that these corporations can be controlled by the federal government and are being controlled by it will stop the popular attacks on them.

What applies to the industrial trusts in this connection applies equally to the railroads, although here the federal government might possibly go a step further and resort to actual incorporation of interstate railroads under federal law as distinguished from the mere licensing of industrial trusts. It may find it wise and even necessary to do more than control the practices of the railroads, to interfere, in fact, with their actual operation by insisting on improvement of the service. If the government assumes such a position, of course railroad earnings must not be interfered with.

The recent decision of the Supreme Court declaring Minnesota and North Carolina rate laws unconstitutional because confiscatory

is cold comfort for the reason that if the state and federal governments are to be allowed to proceed against the railroads to the point of confiscation it leaves but little for the investor to look forward to.¹

Another potent cause of the panic, a cause which has been generally recognized, is the inelasticity of our currency. This subject has been dealt with quite fully before this body and elsewhere during the past few months, and what I have to say to-day is simply by way of supplementing that discussion.

¹At the Chicago trust conference in October last I had occasion to deal with this subject as follows:

Let our legislators see that where there is a single track to-day a double track be laid, that existing double tracks grow to four, that grade crossings be abolished, cars multiplied, terminal facilities increased, that the penalty of men's stupidity in living in such numbers under the insufferable conditions that prevail in our great cities be somewhat lessened by compelling the railroads to suppress smoke in passing through the cities, and, above all, that the hours of the employees be not too long, so that they may give efficient service and stop the sacrifice of life on railways. To compel the railways to do these things is to compel them to benefit themselves and involves no injustice to the stockholder. I do not think we realize yet how serious this step of the federal and state governments is. The great fall in the value of railway shares in England during the past ten years is traceable

YEARLY DIVIDENDS AND PRICES FEBRUARY 1ST, OF EACH YEAR.

	Per Cent	1898	1899	1900	1901	1902	1903	1904	1905	1906	1907
Caledonian	Dividend	5	4½	4	4	4	3½	3½	4	3½	
	Price	160	156	141	130	126	116	104	112	119	102½
Great Eastern	Dividend	8½	3½	3	3	3½	3½	3½	3½	3½	
	Price	120½	122	123	107	108	94½	87½	80	87½	79½
Great Northern	Dividend	2	1½	0	0	2	1	1	1½	1½	
	Price	58½	63½	56½	45½	42	42½	30½	30	46	44½
Great Western	Dividend	3	6½	4½	4	5½	5½	5½	5½	5½	
	Price	178	167	167	146½	140	138	137	141	142	130½
Lancashire & Yorkshire	Dividend	5	6½	4½	3½	4	3½	3½	3½	4½	
	Price	148½	151½	145	121	113	108	96	108½	108	104½
London, Brighton & South Coast	Dividend	6	6½	4½	3½	4½	4½	5½	5½	5	
	Price	178½	176	171	133½	128	128	105½	128½	130	116
London & Northwestern	Dividend	7½	7½	6½	5½	6	5½	5½	6½	6½	
	Price	204½	203	197	179	170	168	152	153½	161	153
London & Southwestern	Dividend	6½	6½	6½	5½	6	6	6	6	5½	
	Price	222	222½	208	190	174	174	155	160	161	153
Midland	Dividend	3½	3½	2½	2½	2½	2½	2½	2½	2½	
	Price	93	93½	81	75½	75	73	68½	68½	69½	66
North Eastern	Dividend	6½	6½	6½	5½	5½	5½	5½	5½	5½	
	Price	179	181½	175	169½	155½	147	130½	130	145½	145½

directly to the power to fix rates placed in the hands of the Board of Trade, a conservative body of practical men in one of the most conservative countries in the world—conservative in the best sense. The English railroads now find themselves confronted with the necessity of making extensive improvements, including the laying of track, with no visible resources for the undertaking. . . . The consequences of discouraging railroad improvements must be still more serious in America than it has been in England, for the reason that England had her mileage and adequate trackage built when the practice of attacking earnings began.

During the past year the most serious attack on railways has come from the separate states, but it is the new powers conferred on the Interstate Commerce Commission from which we really have most to fear. The cry of the public is always for lower charges. Let this cry come up from all parts of the country to this small body of men through a series of years and what hope is there that they will succeed in withstanding it?

The problem of an emergency currency revolves principally around the question of what constitutes an adequate tax on such currency. Without an adequate tax the currency will not contract sufficiently in normal times and will therefore lack proper elasticity in abnormal times. Furthermore, without such tax there is serious danger that inferior money will take the place of good money. Two things conjointly cause gold to be drawn to a country: One is the providing of a place for gold in the currency system of the country, the other is the interest rate. Neither the one nor the other alone suffices. High rates of interest have obtained in silver countries without drawing gold to them; high rates of interest obtained in the United States before our resumption of specie payments, without sufficiently attracting gold. There must be a need for gold (*i. e.*, a gold standard and an absence of other forms of money), accompanying the high interest rate, otherwise gold will not come. Obviously the way to maintain "an absence of other forms of money" is to tax such money. If we want to prevent an issue of paper money which, if issued, would interfere with the supply of gold, we must begin the tax on such money at a rate which is supposed to attract gold so that the general rate of interest may not be interfered with beyond that point. For example, if the United States, which is on a gold basis, finds that a general interest rate of 6 per cent will attract gold, it can avoid having its gold supply affected by an emergency currency if the tax it imposes upon such currency begin at 6 per cent. A currency taxed at 6 per cent will not be issued until the general rate of interest is high, *i. e.*, until gold is being attracted; and it will not interfere with the continued inflow of gold, because the moment the interest rate falls too low, emergency currency so taxed will become unprofitable and will be withdrawn. On the other hand, currency issued at a low tax is apt to keep the general interest rate too low and prevent the inflow of gold. The advocates of asset currency in this country refuse to consent to the imposition of a tax which would cause their currency to disappear in ordinary times. Asset currency so taxed is not their kind of asset currency.

The question of the basis of the currency issues, whether bank assets or miscellaneous securities deposited with the government, is of minor importance as compared with the question of an adequate tax on the issues. Still, because of the number of banks

in the United States to be surveilled, it seems preferable that the government should have in its own hands something to secure the issues. Coming to the question of the character of the securities to be so deposited, we find objection made to the inclusion of railroad bonds on the ground that the market value of railroad bonds would be unduly enhanced. Is this objection sound? A high market price for the bonds means borrowing at a low rate of interest, or lighter fixed charges on the railroads. Now, whether it be the public purpose to further cheapen the service or to let the railroads earn a profit and insist upon their using it to better the service, a lessening of the burden of fixed charges conduces equally to either end. So that from whatever standpoint we look at it, the inclusion of railroad bonds in the securities to be deposited for emergency currency issues would be a public gain.

The crisis of 1907 was aggravated, as we know, by a run on the banks. Two devices suggest themselves as calculated to prevent a recurrence of this: one, postal savings banks, the advantages of which must be apparent to every student of public questions, the other a guarantee by the federal government of deposits in national banks. It would be a distinct gain if, while having a secure currency, we could at the same time make secure the deposits in national banks. This guarantee could be made without risk of financial loss to the government if a small tax were imposed on the banks the proceeds of which would constitute a guarantee fund, the government being empowered to levy an extra assessment on all the national banks in addition to the regular tax whenever the guarantee fund fell below a specified amount fixed by the statute. The contention that the government would assume an impossible obligation under such a guarantee is met by the provision that the government guarantee be limited to the actual fund collected, as under the Canadian provision for the redemption of the notes of failed banks. Is such a guarantee likely to undermine to any great extent the conservative management of the banks? Certainly it would not relieve the stockholder from responsibility. Before the government guarantee would apply and the government fund be touched, the stockholder would be called upon to make good his extra liability of \$100 on every share of stock when the assets were inadequate.

It may be urged that the power to withdraw deposits and make

the bank unprofitable, or actually to threaten its stability, is an instrument the effect of which is immediate, that therefore the depositor in practice exercises a much more effective control over the directors than the stockholder, whose knowledge of the affairs of the bank is notoriously inadequate and whose control of the bank's policy is correspondingly feeble; that the consciousness of this fact acts as a check upon the bank's officers; that if depositors were guaranteed the depositor would no longer scrutinize the management of the bank, the result being looser management and more failures and greater losses to be made good by a government guarantee. To what extent the watchfulness of the depositor makes for conservatism in banking is problematical. Let us assume that all of these contentions are well founded and that at first losses through bank failures would be doubled under this plan. On whom do these losses fall? Not on the depositor, for his deposit is secure under the government guarantee—and the depositor is the public. It falls, first, on the stockholder, who, if bank methods become lax, will soon devise means of keeping better control of the management. It falls, next, on the associated banks whose interest it immediately becomes to insist on more efficient government supervision. Furthermore, one source of bank failures—the run on banks—is removed. With these factors to offset the greater laxness of bank management, which we will assume results from the withdrawal of watchfulness on the part of depositors, it is reasonable to suppose that in the course of a few years the losses through failure of banks would not be greatly in excess of the present average. But even if these losses were doubled a very small tax would still suffice to cover them.

In the extreme case of losses threatening to become excessive, resort could always be had to a repeal of the statute and, after reasonable notice, an abandonment of the government guarantee without jeopardy to existing interests. In other words, the proposed legislation involves no such dangers as lax currency legislation.

Ease of mind of the depositor, actual security from loss on the part of many who can ill-afford a loss, a broadening of the practice of intrusting money to banks instead of hoarding, the entire removal of the incentive to withdraw deposits for hoarding and consequent doing away with runs on banks; these are the advantages that could be confidently expected.

In a discussion of the business depression and possible remedies the question of wages forces itself upon us. It is urged that the laborer should accept lower wages to help along recovery. In many cases he is forced to accept lower wages whether logic is with him or not. In times of business depression his strategic position is particularly weak and his appeal must be principally an appeal to reason. Now, from the standpoint of the public interest, to what extent does a reduction of wages really conduce to recovery, and even though it may so operate, is the public welfare promoted in the long run by such reduction? If the standard of living be lowered by lower wages—and how can it be otherwise—lowering wages is to be avoided, if possible. It is the standard of living which makes not only the market but the man, *i. e.*, makes him a more valuable citizen and more efficient workman. If wages are the last thing to recover with a recovery of business activity and the last thing to advance amid advancing prices, then wages are entitled to especial consideration and protection. Undoubtedly lowering wages helps to lower prices, but in times of depression the extent to which lower prices enlarge the market is problematical. If it be a question of foreign competition, *e. g.*, if lower wages abroad are forcing the manufacturer out of his principal field of operation, the case for lower wages at home is plain. But when a people are surrounded by a tariff wall, it is safe to say that in the long run wages are recovered by the employer in prices, just as taxes in the long run are recovered in prices.

And underlying the whole problem is the question of social justice. Has the laborer since the beginning of the industrial era gotten out of his labor as decent a living as the ingenious labor-saving machinery of modern times should give to him? And is it not fairer that capital and direction should suffer the pinch of hard times before they ask labor to share it?

NECESSITY AND PURPOSE OF ANTI-TRUST LEGISLATION

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The particular phase of the "Present Business Situation" to be considered in this paper is the effect upon business of anti-trust legislation. I do not mean anti-trust legislation in a radical sense, since the trusts have become a permanent and essential part of the business system of the country and legislation against them would be futile, but I mean legislation designed to regulate and measurably control them. The briefest consideration of this subject will be guided by the particular object of the legislation in view, because, in any case, business expediency must yield to the public welfare in its broader sense, and a temporary sacrifice is often necessary to insure a permanent benefit.

To begin with, I think it is mischievous to attribute to legislation the recent panic and the business depression which ensued. Such a theory deprives us of the only profit to be derived from the experience, and it diverts attention from conditions which require careful consideration. According to a Spanish proverb, "There is no evil that does not result in good," so the effects of the panic will not be all a loss unless by wrongly ascribing them we ignore the real cause and fail to take precautions against a recurrence. The fact is that prosperity was over-exploited, public credulity capitalized, and funds were diverted from legitimate employment. It is true that agitation favoring trust legislation, by calling attention to corporate abuses, hastened the day of reckoning, but if it had been deferred it would have been a day of calamity. Inasmuch as the reaction was inevitable, it is well it came when the inherent soundness of the situation saved us from disaster. The tide running flood for many years made a current so deep and strong that the channel-marks of safety were lost to view. They become visible

again as the tide recedes, and if heeded will protect us from worse conditions than those we have known. Prosperity, like good food, incurs the penalty of indigestion unless discretion tempers indulgence.

The legal use by many mere agencies of speculation of the term "Trust Company," a title heretofore associated with extreme conservatism, is an example of the lack of discretion observed and of the laxity of the law. Moreover, nearly all the trust companies in New York had adopted banking functions heedless of the clearing house demand for conformity to banking precautions. Thus, with over \$600,000,000 of deposits (a large proportion of them payable on demand), a number of these institutions had practically no reserve fund when the panic broke. This acute feature of the situation was not due to legislation but to the successful resistance to legislation that would have safeguarded it.

With the trusts as they have developed during an era of wonderful industrial progress, or at least with those of them that do not run counter to public policy, we have no quarrel. For better or for worse, they are established institutions, entitled to all the protection of the law which gave them existence. Their methods of formation, however, and their purposes and procedure, in so far as they do oppose public policy, require legislation to regulate and control them, and such legislation is not to be subordinated to its immediate or temporary effect. They have brought into business life a new set of conditions not contemplated by existing law, and in advance of legislation to govern them. Each of these mighty and impersonal agencies is founded upon the displacement of many independent proprietors and aims at further absorption and a complete monopoly of its products—with all the functions pertaining to it—from the first source of supply to final consumption. Their object is to pay dividends upon greatly inflated capital; they are unhampered by the ethical standards that pertain to personal relations and do not concern themselves with questions of public policy when in conflict with their own interests, while their vast resources are a bar to individual enterprise and to competition, which is the life of trade. Having acquired dominion in their respective spheres, absorption continues *inter se*, until, if unrestricted, a situation arises which is

a menace to the state. The life insurance disclosures have shown how concentrated wealth breeds a sense of power readily convinced of the superiority of its own interests—to be protected at all hazards. On the other hand, the trusts supply a requirement of modern business which in the enlarged scale of operations is beyond the efforts and resources of individuals and private firms, and it is this consideration that conciliates the natural sentiment against them.

The necessity for laws to govern these new conditions is not open to dispute, however opinion may differ as to what constitutes necessary legislation. The trusts on their part assisted by a corps of the highest legal talent, while asserting every privilege and immunity that the most favorable construction of the law affords them, resist new legislation affecting their interests except such as is specifically framed on their behalf. While public opinion does not countenance reprisal, it is small wonder that this practice of the trusts injures them in public esteem and at times results in hasty and unwise enactment. Such an enactment seldom does serious harm, because it cannot invade fundamental rights, and as a matter of fact it yields to an enlightened public opinion. In any case, no sort of legislation so harmfully affects business as do the methods employed by special interests to influence enactment and enforcement—while one is subject to correction the other paves the road to socialism or worse. In the main, legislators are responsive to public opinion and the law is justly administered. If this ceases to be the case, the remedy is not the money power, indeed, the money power and property itself may well look to their own stability.

Legislation itself, however, is seldom the cause of serious disturbance in business. Conditions readily adapt themselves to the accomplished fact, but agitation to secure legislation, and the uncertainty which attends it, alarm capital and clog the wheels of trade. If, for this reason, agitation is to be considered a malady, our first care should be to remove the cause. There is no disposition to hamper the legitimate functions of the trusts or to rank the observant among them with the delinquent,—at the present time, for example, they have the support of intelligent opinion in seeking an amendment to the antiquated Sherman Law in its unduly restrictive features. On the other hand, what voluntary deference

do the trusts show to the public will? They have resisted the enlargement of the power of the Interstate Commerce Commission as required to meet conditions arising; they demur to a proper control of public utilities; and they have opposed a revision of the tariff upon the plea that it would interrupt prosperity. The burden of adjusting conditions to a new schedule will now fall upon business when it has other cares to distract it, and the issue adds anxiety to the forthcoming election. If this obstructive attitude is continued on their part there can be no surrender or compromise on the other side, and the contest must go on—not in a vindictive spirit, however, but as our respected governor in New York upholds the constitution—steadily and persistently. Whatever may be the cost of such a struggle, or whatever its effect upon business conditions, victory will be cheap.

The mere statement of a few of the objects and effects of trust dominance is sufficient argument against them. The shipping and shipbuilding trusts, formed under the ægis of successful finance to exploit an expected grant from the public treasury, were a mockery of public intelligence in their ponderous capital. The tyranny of the tobacco trust in its methods of acquiring control is a matter of reproach. The scandals of the lighting and traction trusts throughout the country make pabulum for the demagogue. Are these conditions to continue for fear of the effect of corrective legislation upon business? Is there to be no supervision of the extent of authorized capital, or no requirement for the publicity of essential facts because Wall Street decries anything that disturbs values? Are food products to go uninspected because the exposure of the methods of the beef trust impaired its foreign trade, or must the great cities be content with the lighting and traction service they now get while franchises and the franchise-making power are corruptly manipulated? To put these propositions in the form of queries is an injustice to American readers. An answer comes from distant San Francisco, where the determined attitude of the citizens' committee excites our admiration. Against a press which laments the effect upon business, and society which frowns at the implication of its members, these resolute men insist that trust officials who make chattels of public servants shall be adequately punished, and that high station is but an aggravation of their offence.

In the administration of the trusts there are also features of sufficient importance to require legislative provision. Not to expand these statements beyond the space allowed, I will mention but one, which I believe is more prolific of trouble than any other. I allude to complacent directors, with the fullest faith that in point of intelligence and integrity the average American business man is the peer of his fellow in other communities. In the category of business men I do not, of course, include the gilded youth who points with pride to his selection of a father, nor the man of broader knowledge and experience whose vanity craves a score of directorates to the neglect of all, but the men who have made a success of their own affairs and who recognize the obligations incurred by a director. Such men, it is true, have little time to give to the affairs of corporations, but often when available they are "not serviceable" because of a propensity to discover and expose the schemes of an inner circle. The long lists of directors of many large fiduciary institutions, judged by their record of attendance and measured by their knowledge of the affairs that they direct, do not inspire confidence but explain the melancholy midnight processions in New York during the trying days of the panic. Men of unblemished personal record passed sleepless nights in saving from the effect of their neglect several prominent institutions. If this was the only damage done it could be complacently regarded, but the consequence was to prolong the turmoil, and the community is justified in expecting legislation to substitute the practical for the picturesque.

It is incredible that the reputable men who were directors of the delinquent trust companies in New York were cognizant of the conditions which led to their troubles, or that their judgment had due weight in the councils that resisted the dictates of prudence. The Constitution of California makes broad provision for the accountability of directors and trustees alike. This provision was objected to at the time of its adoption, on the score that men of means would not serve as directors, but the event has proved otherwise. It is not to the point that business procedure requires the delegation of power and authority to executive officials, because the same necessity applies to private firms, and directors are properly holden to the measure of care and

supervision exercised by a merchant, and the community is entitled to such assurance.

"The people who are governed least are governed best" is equally true of corporations, without prejudice to the necessity for legislation to fix their status and regulate their procedure. Shorter sessions of Congress and state legislatures are devoutly to be wished, and the trusts can contribute to this end by realizing the futility of opposition to measures vital to the public interest. If those in control would recognize a trust in the broader sense and render to Cæsar only his due, make public policy a part of their consideration, and conduct the affairs in their charge in the same way that made their earlier careers a success we would hear less of anti-trust legislation and its effect on business. On the contrary, reciprocal relations, if established, would disarm captious criticism and vanquish an antagonistic sentiment that the trusts have done much to provoke.

It is not my purpose to paint a picture of gloom or of despondency. There is no occasion for gloom and no room for despondency in this land of hope and plenty. Perpetual sunshine is neither to be expected nor desired. The business man awakened to his opportunity and responsibility is equal to the problems he has to solve. It first behooves the financiers, however, to come back to their moorings. They have departed from the time-honored conservatism of their guild to dangle the bait of "get-rich-quick" methods. The great corporations which they have launched are a pride only in the success they attain. Their prosperity can be no greater than the prosperity of the country at large, that is the prosperity of the individual, without whose restored confidence the occupation of the magnate of finance is gone.

THE DRUG TRADE AND THE ANTI-TRUST LAW¹

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Thirty years ago the wholesale drug trade of the United States, was in a demoralized condition. Competition was fierce, especially in proprietary medicines, which constitute more than half of the average drug jobber's business. There was little or no profit on these goods, and with many wholesale druggists it was a severe struggle for mere existence. The situation became so acute that it was absolutely necessary to find a remedy, and about that time the wholesale druggists of the country, all suffering from the disastrous results of excessive competition in proprietary medicines, formed their association. Upon the petition of the association many proprietors of these goods adopted the so-called "rebate plan" in the mutual interest of the jobbers and themselves. Under this plan the proprietor fixed a uniform wholesale price for his goods all over the country, and paid the jobber a rebate therefrom, upon the condition that the latter would not sell below the price; the matter being covered by a contract or agreement between the proprietor and each of his wholesale distributors. This rebate or discount constituted the jobber's entire compensation for handling the proprietor's goods, and the allowance was only a reasonable one, being but little more than the cost of transacting the wholesale drug business. The jobber was thereby insured a steady, although small, profit on proprietary articles, and the cut-throat competition which formerly prevailed in the wholesale drug trade on this class of goods was greatly reduced. The present margin of profit on the wholesale drug business is not to exceed three per cent on the total amount of sales, which is a very moderate return, considering the large capital invested and the technic knowledge required to conduct the business.

¹ A large part of this paper has previously appeared in the Proceedings of the National Conference on Trusts and Combinations under the Auspices of the National Civic Federation, Chicago, October 22-25, 1907.

Organization in the Drug Trade

While the rebate plan provided a reasonable remuneration for the jobber, it gave no protection to the large army of retail druggists who some years later were compelled to sell proprietary medicines practically at cost, to meet the ruinous competition of department stores and the few large retailers who made a specialty of cutting prices on these articles, mainly for the purpose of drawing customers to their stores and selling them other goods on which they made a large profit. In order to assist the rank and file of the retail drug trade, many proprietors adopted, about seven years ago, what was known as the "tripartite plan," under which they required their wholesale distributors to refuse sales of their goods to "aggressive cutters," who insisted upon selling below the prices agreed upon by most of the retailers in their respective communities.

The "direct contract and serial numbering plan" was later adopted by some of the proprietors, who fixed both the retail and wholesale prices on their goods, and took direct contracts from the retailers as well as the wholesalers, requiring them not to sell below such prices.

Under none of these plans were the prices of proprietary medicines unreasonably increased. They were never advanced beyond the retail prices marked on the goods by the proprietors themselves and in fact, the retailers sold considerably below such prices in the great majority of cases.

Violation of the Sherman Anti-Trust Law

Unfortunately, however, some mistakes occurred in the operation of the "tripartite plan," the principal one being the effort of the retailers, through a so-called "honor roll," to persuade jobbers to refuse goods of every kind to "aggressive cutters." This led to excesses which occasionally took on the appearance of an attempt at tyranny, and the result was that the government brought a suit against the proprietors, wholesalers and retailers, on a charge of combination or conspiracy to restrain trade in violation of the Sherman anti-trust law. As the outcome of this suit, the United States Circuit Court, at Indianapolis, issued a decree forbidding any

further co-operation between the three branches of the trade in carrying out any plans for the sale of goods, and even enjoining the wholesalers and retailers, through their respective associations, from making any effort to secure the adoption by proprietors of plans for the maintenance of their prices. But the decree does not deny the right of a manufacturer to adopt and enforce any plan he may choose for the sale of his own goods, provided his action is individual and not in combination with any other person or association.

While some errors were made in the attempt to improve the deplorable conditions existing in the retail drug trade, they were due to an excess of zeal and there was no intention on the part of any one concerned to violate the law. It was a great injustice to designate as a "drug trust" the trade arrangements which existed among the manufacturers, wholesalers and retailers for the sale of proprietary articles. On the contrary, these arrangements were directly opposed to the "trust" idea. Their object was simply to establish uniform selling prices which provided only a fair margin of profit, so that the thousands of small dealers could continue in business, instead of being driven out by the comparatively few "aggressive cutters," whose methods tended to monopolize the business in their own hands.

Until the government suit was brought against the drug interests it had always been supposed that the Sherman anti-trust law was intended for the protection of the many against the few. It was used, however, to produce exactly the opposite result in this case. It was also humiliating that the whole drug trade of the United States should be branded as conspirators and lawbreakers because they were parties to trade arrangements which had always been considered proper until the Sherman law was invoked. It has been truly said that it is not possible to indict a whole nation, but now our own government has enjoined a whole trade, because the number of druggists who had not signed the contracts was so small as to be practically negligible.

The Sherman law is such a broad one that the injunction in the government suit completely tied the hands of the two large associations existing in the wholesale and retail branches of the drug trade, and prevents either of them from making any organized effort to obtain protection from the manufacturers whose goods they handle. It can hardly be conceived that the law was ever

intended to work such a great hardship upon thousands of good citizens engaged in the same line of business. Unless this law is so amended as to permit reasonable agreements which are beneficial to commerce, and which do not conflict with the public welfare in any way, the business men of this country will undoubtedly be placed at a great disadvantage. If this law should be literally applied, it will cause the greatest possible restraint of trade, although it was intended to prevent that condition. Reasonable agreements do not restrain trade, but promote it.

Possible Scope of the Sherman Act

Should the Sherman law be pushed to its logical conclusion, the merchants and manufacturers, who are being held to a strict accountability under it, are not the only class of citizens whom it will involve. For instance, it is well known that the farmers, through their associations, fix the price of cotton, and perhaps other commodities produced by them. According to the newspapers, such associations have not only established minimum selling prices on cotton, but have arranged for storing and holding the crops until purchasers are compelled to buy at the prices fixed by them. Labor unions have also been actively engaged for many years in making agreements with their employers, fixing the price of labor, regulating the hours of work, etc. It is hardly necessary to refer to the many strikes and boycotts which have been inflicted upon the country, often with serious results to the public interest, as they are matters of common knowledge. Once the toiling and voting masses of the nation realize that their own interests are threatened by the Sherman law, it is easy to conceive that our national legislators will no longer fail to appreciate the necessity of correcting its defects.

European Law on Merchants' and Manufacturers' Associations

In striking contrast to the restrictions imposed by the Sherman law in our country, it is enlightening to observe what absolute freedom of trade is permitted by the governments of other countries, notably England, France and Germany, which place practically no legal restrictions upon agreements regulating the prices and sale of goods. Through the courtesy of the Department of State at Washington, a series of questions, prepared by me, were

answered by the American consuls in more than fifty of the principal cities in the three countries named. These consular reports show that Great Britain, France and Germany have never undertaken to prevent or interfere with proper trade agreements. On the contrary, the widest latitude seems to be allowed manufacturers and dealers, among whom numerous combinations exist, especially in England and Germany, to secure the maintenance of prices and terms.

In our own country, however, the Sherman anti-trust law is so sweeping that it makes illegal every contract or combination in restraint of trade. Even if the contract or agreement is a reasonable one and does not menace the public welfare in any way, it is nevertheless prohibited by this law.

As a matter of curiosity, it is interesting to refer to a "Catalogue of Drugs, Medicines and Chemicals sold wholesale and retail by Jacob Schieffelin, 193 Pearl Street, New York," published more than one hundred years ago. This old price list was printed in 1804, and it bears the following official endorsement: Examined and approved by the New York Druggists' Association, New York, August 6th, 1806. By order, Henry H. Schieffelin, Secretary." It would seem that it was entirely lawful in those early days for merchants to form an association and agree upon the prices to be charged by its members.

There is a pressing need of congressional legislation which will make it lawful to enter into reasonable and proper trade agreements, for without such agreements it is difficult to meet the complex conditions of modern business. The Sherman anti-trust act was no sudden legislation, as it was introduced nearly two years before it was passed and was the subject of exhaustive discussion. Yet Senator Sherman said his act was a law in "general terms" to be modified by subsequent legislation.

It is generally believed that the fixing of insurance rates by agreement of the underwriters is an advantage to the public, nor have I heard much criticism of the action of the Clearing House Association in fixing the fee to be charged for collecting out-of-town checks, and imposing a penalty for a violation of the terms; yet mercantile agreements are analogous. Merchants should be allowed to attach to any purchase or sale any conditions that are not contrary to public policy.

Unjustifiable conditions or agreements are those which tend to control the markets for speculative purposes, or to create a monopoly and eliminate legitimate competition, so that merchandise could be sold at extortionate prices, but justifiable agreements are those which tend to protect from a ruinous fluctuation of prices owing to a needless competition. Therefore the law should be amended to legalize agreements in justifiable restraint of interstate trade which have a reasonable or laudable purpose, and which are filed with the Department of Commerce. Publicity would thus be secured and any question as to whether the agreement was justifiable could be tried in the federal courts.

ATTITUDE OF LABOR TOWARDS GOVERNMENT REGULATION OF INDUSTRY¹

BY SAMUEL GOMPERS,
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In his paper upon The Causes of the Present Business Situation, Mr. Isidor Straus stated that if fifty business men were to go separately before some just judge, and each give his version or judgment as to the cause of the present business situation, it would be exceedingly difficult, if not impossible, for the judge to decide intelligently the real cause. I am in entire accord with Mr. Straus, but I want to draw just one inference from that statement, and that is, that I believe the fifty business men and all others, including this splendid audience, will agree that, whoever is to blame for the present industrial and financial crisis and stagnation, it is not due to the fault of the working people of this country.

We all agree that this is one of the most fertile countries on the face of the globe. Nature is kind to us. Our natural situation is splendid. With eighty-five millions of souls in our country, with our enterprise, ingenuity, industry, and with our men working and producing the wealth of our nation, bent upon producing more wealth, giving the very best that is in them, the country awoke one fine morning last October to find that the industries were checked and many of them stopped, and that many men were thrown upon the streets without the opportunity to continue to produce wealth, so necessary to the welfare of themselves and all the people. It is a lamentable criticism upon the acumen of our princes of finance and of our captains of industry.

Of one thing I am sure no one can justly accuse the men of labor, and that is that they are pessimistic. Well, I should perhaps make a distinction between the men of labor who have not succeeded in arriving at the conclusion that their best interests are protected and promoted by association with their fellow-workmen, and those ready to help each other to bear each other's burdens, and willing to assist and receive the mutual benefits and advantages that come from associated effort. Speaking for them, the

¹An address delivered at the Annual Meeting of the Academy, April 10, 1908.

organized, the associated workmen, I am sure that they have not lost faith. They are optimistic. They have faith in themselves and in each other. They have faith in all the people of this country. They have faith in the institutions of our country, and they are determined to see that the principles and purposes underlying this republic shall be perpetuated for time without end.

It is one of my duties to endeavor to ascertain the state of employment, or, rather, the extent of unemployment. From the most accurate data I have been able to collect and collate, I find that in January, 1907, among the associated, the organized, workmen, there were about three per cent who were unemployed. In January, 1908, there were eight per cent unemployed. In February, 1907, there were about two per cent unemployed; in February, 1908, nine per cent, and I should say that, in my judgment, this is rather understated.

No matter how much people may differ as to the organizations of the working people, I think it is generally admitted that the most skilled, the most intelligent of the working people, are in the labor unions of our country, and with the labor bureaus that prevail among them, there is a larger percentage of workmen in the organizations of labor who are employed, than among those who are not so associated.

I make this statement to correct the exaggerated statements of both sides. I have seen it variously estimated that there are five millions workmen unemployed, and on the other hand I have heard it asserted that there are not half a million. I am sure that the figures which I have presented to you are as nearly accurate as are obtainable from any source.

I desire to speak of another feature of this general discussion, the government regulation or control of corporations, associations and combinations. At the outset let me say, as one entitled to speak in a measure for workmen, and having their mandate, that we are not in favor of that species of governmental action that shall deny the right to the business man of our country to conduct modern business within the law. We do not believe it is right, just or wise that the assumption shall be set up without good proof that the business man is conducting his business unlawfully, and this I think will suffice for me on this phase of the subject, for I take it that the business men have sufficient men and brains to

present their own cause. I shall speak particularly for the cause of the men and women who toil, and who have too few to speak for them.

The Sherman anti-trust law assumed that all combinations, and that all persons who associated themselves for the purpose of advancing their own interests, and who might thereby in a measure restrain trade, were guilty of an injurious restraint of trade. Whether that restraint was beneficial or not, whether or not it was advantageous and performing a great public service, it was illegal, was unlawful and punishable by fine and imprisonment.

I have already said that it is not necessary that I shall present the viewpoint of the business man, but I want to present to your consideration this fact. Is there any man or woman here this afternoon, who, in the year 1888 or 1890, dreamed, suspected or imagined, when that legislation to regulate trusts was under consideration, that the organizations of men and women who work were included under its provisions? Having lived at that period, and having had some close, intimate relations with the men who were responsible for that legislation, and having had conferences with them at the time, having known their expressions as borne out by their official utterances in Congress and printed in the Congressional Record, I am certain there was not one who, even by indirection, declared that this legislation covered the organizations of farmers, horticulturists, or wage earners.

The Supreme Court of the United States has declared in a recent decision that the labor organizations do come under the provisions of the Sherman anti-trust law. I shall neither here nor elsewhere undertake to criticise disrespectfully a decision rendered by that great and august judicial body of our country, but I think that we have the right, as men and women, to differ from an opinion rendered even by the Supreme Court of the United States.

The Supreme Court of the United States has sometimes reversed itself. Perhaps I need only to refer to the fact that when the income tax law, passed by Congress subsequent to the war with Spain, was before the court, the court decided by a vote of five to four that the law was constitutional, and then, six weeks after, the same court, composed of the same men, voted by five to four that the law was unconstitutional. There are other cases to which it is not necessary now to refer. If any man desires to

take exception to any differences of opinion with the Supreme Court, I advise that he read the dissenting opinions of the judges of the Supreme Court. No severer arraignment has ever been indulged in by any citizen of our country.

Many have fallen into the common error of speaking of workmen and workingwomen as labor, and then making the general statement that there should be equality of treatment of labor and capital, or capital and labor. The error is this. Capital is chiefly inanimate, things without life. Capital is the product of human effort. It is the product of the laborers, while the wage earner—labor—is part of the human living, breathing man and woman. You cannot differentiate, you cannot distinguish, between labor and the man and the woman who perform the labor, and it is economically and scientifically unsound for anyone to confuse the terms of capital and labor. Capital, I want to emphasize, is the product of the laborer. Labor is part of the laborer himself. You can transport capital from one end of the country to the other. You cannot transport labor without transporting the human being, and the association of men and women who labor is for the protection of individual liberty, of human life, of human rights, the ownership and disposition of one's self. How even legislators or courts can fall into the common error is explained only by the confusion of terminology upon the subject.

There are some who would, by law, curb or turn back the wheels of industry and prevent the development of the concept of human rights. Let me say, my friends, that law, as I understand the term, is made for the government of the people and for their protection and the promotion of their rights, their liberties and their happiness. A law which has not that for its purpose and effect, fails to perform its proper function and must be either amended or ended.

Industry and commerce, and the means of transportation of the products of labor and the transmission of information, and labor using it in its accepted sense, cannot be turned back to the condition of a half century or more ago. Association is the very essence of our modern existence and progress. We cannot conduct our business affairs upon the old lines of each employer conducting an individual business. The old-time partnerships are very scarce. Companies are merged into corporations, and, if

you please, into trusts. They are not going to dissolve. There is no law; there is no power in government to dissolve the associations of the toilers or of industry; you cannot go back to primitive industrial conditions, and the law will either be amended, or ended, or not enforced.

On the other hand, the organizations of the working people have done much to instil manhood and character in the workers; and have given them a consciousness of self-reliance and self-respect. The organization has given them a recognition of the principle that man cannot live for himself alone, that he is accountable to his brother and for his brother, that he must be willing to help bear his brother's burdens. In doing this the organizations of labor have done much to shed a ray of sunshine where gloom obtained in the home before, and have raised the American standard of life of the working people of our country. They have shortened the hours of labor, and have given the workingmen and women time and opportunity for the cultivation of the best that is in them. They have raised in the workingmen a conception of the higher ideals of American institutions, and have made of the working people a yeomanry of which we should all of us be proud, a yeomanry which shall stand as the bulwark of the constitution of our country; and of the Declaration of Independence, even against the antagonism or apathy of too many of our people, who regard the Declaration of Independence as a string of glittering generalities.

Only a few days ago we heard that a decision was rendered by the highest court of Massachusetts declaring that a strike for a certain reason was unlawful; that a strike against the open shop is unlawful. Now no man, who has given the subject of labor any consideration for any considerable time, is an advocate of strikes. I am sure I have yet to make the acquaintance of any man, active for any considerable period in the labor movement, who has not done his level best to discourage and prevent strikes, but there comes a time in many industries, when, if the workingmen would not strike or prepare to strike, the chains of slavery and demoralization would be riveted upon them for all time to come. We do not advocate strikes. We do not denounce them. We know that denunciation of strikes does not stop strikes. It is the strike or the fear of a strike that compels fair consideration by the unwilling, unfair employers.

Let me say a word in regard to this so-called "open shop," for there is a misunderstanding in regard to it. The union shop carries with it the responsibility of an agreement with employers to fulfil and carry out an agreement. In many industries there are extra-hazardous conditions to life and health and limb. The courts have decided in several states that neither workingmen, nor their families, can recover damage in the event of injury or death by reason of the negligence or ignorance of co-employees. I ask you, my friends, whether, if that be the state and the practice of the law, workingmen are not justified in insisting that their co-employees shall possess a certain amount of skill, a certain degree of sobriety, responsibility and respect? Are they not justified in setting up a standard by which they themselves can protect their health, their limbs and their lives? The highest court in the State of New York held that that principle was not only good in law, but justified by modern industrial conditions.

It is now said that the boycott has been outlawed by the action of the Supreme Court of the United States. I shall not attempt to discuss that at length, but may I call your attention to the fact that China is now making a very serious attempt to boycott Japan, and it is not uninteresting to know that the newspapers advise us that no less a personage than President Roosevelt, together with Secretary Root and other officers of the legislative branches of our federal government, have very seriously considered how we can boycott Venezuela and bring that little country to terms.

This labor question is rather a large one, inasmuch as it encompasses the field of human endeavor, but let me say this, that we are rather chagrined, to put it mildly, to find that our courts have no hesitancy in guaranteeing us the "right" to be maimed and killed, without liability to the employer, and the "right" to be discharged for belonging to a union, and the "right" to work as many hours as employers please, and as employers impose. They give us academic rights and deny us rights which are necessary to our existence.

It is contended by the laboring men that the power of the courts, particularly the equity power and jurisdiction, and the discretionary government by the judiciary for well-defined purposes granted to the courts, and within specific limitations, by the constitution, has been so extended that it is invading the field of government by law and en-

dangerous individual liberty. I call your attention to this fact, that as government by equity—personal government—advances, republican government—government by law—recedes. It is against this tendency that the organizations of labor are now working. This is not generally understood. The results are not confined to the workers, and I speak of the workers in the generally accepted sense. Every successful contest which the working people of our country may make to secure human liberty, makes for the freedom of all the people now and hereafter.

THE POLITICAL SIGNIFICANCE OF RECENT ECONOMIC THEORIES

BY SIMON N. PATTEN, PH.D.,
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An American economics is a new creation, so new, in fact, that we scarcely realize its existence. I say this not because there is in the best of American work a break with the traditions of European schools, but because the underlying premises of economic thought are brought in America into clearer light and thus both their defects and strength become visible. Progress can be made by radical breaks with the past; it can also be made by bringing into sharper contrast ideas and premises which in the earlier thought were blended into a seemingly harmonious whole, but which, after all, represented opposing modes of thought. Economists can create systems, but it is only the trend of events that decides between them. Each generation compromises oppositions or holds tenaciously to opposing systems so long as there is nothing in environing conditions that forces the isolation of two differing but temporarily harmonized principles. The recent changes in economics have been of this kind.

American conditions have developed latent oppositions that by earlier writers were smoothed over because nothing vital turned on them. The progress in American economics has set aside these compromises and built a more logical scheme of thought on fewer premises better interpreted and more logically stated. There are thus two diverging schools arising from a different emphasis of elementary principles, each with a body of theory and a program of action. Their contrasts would be of little moment if there were not also a steady shifting of public interest in directions that make the differences in economic theories correspond to differences in public policies advocated by publicists and statesmen. The road of the economist becomes the road of the people and the differences of economists are settled, not by their logic, but by the success or failure of the policy which each theory calls for.

It is in this spirit that I approach the problem of distribution which I shall try so to restate as to show its bearings on public

questions. To do this calls for a bit of history, for the two theories now contending for supremacy are stated by Adam Smith and expounded by later writers. They were compromised, however, both by Smith and his followers, so that economics seems at once on both sides of what is in reality a fundamental contrast. It is to the credit of American economists that this compromise is broken down. Much of this work has been done by Professor Clark, who has taken one element of economic thought and expanded it into a system the merit of which is superior to any that has preceded it. His premises are clear, his thought is logical and his conclusions as to public policy are equally definite. His theory of distribution is called a productivity theory, because he assumes that each share in distribution is fixed by its contribution to the production of income. What a capitalist gets, what a laborer gets or what a landlord gets depends on the productivity of each of these factors in distribution. All income is related to its service in production and its distribution is but a corollary to the laws of production. There is thus a natural justice, giving to each his share and preventing any one else from despoiling him of his just reward. This natural reward is the cost price needed to evoke the effort of production. Professor Clark thinks prices tend to this cost level, and when they do reach it the return of each producer is on a just basis.

It is plain that so simple an analysis of industrial conditions has elements of great popularity. It appeals to long-standing sentiments and to many popular instincts. But before accepting it we should see what can be said by those who oppose it and why an increasing number of economists find its premises and conclusions unsatisfactory. To do this we must contrast the productivity theory of distribution with a price theory which assumes that distribution is effected solely by price movements. In this way the elements in price become the factors in distribution instead of the agents in production, as Professor Clark assumes. Each share in distribution grows or falls off as it becomes a larger or smaller element in the price of commodities. Changes in price levels result not in a general loss or gain to all producers, but in a loss to some and a gain to others. If seven pounds of steel have been exchanged for a bushel of wheat and the ratio is so changed that six pounds of steel will buy a bushel of wheat, all farmers lose and steel makers gain;

while when eight pounds of steel must be given for a bushel of wheat, steel makers lose and farmers gain. If this be true, there is no general fall of prices following improvements in production. The gains in production constantly remain as price elements and are distributed by price changes. Values are thus put at a higher level than costs by improvements lowering the expenses of production. The difference between total values and total costs is the social surplus for which each group of producers contends. The successful in this endeavor become monopolists and get a larger share than do their less successful competitors. Monopoly is thus a natural phenomenon due to the growth of the social surplus. Its form may be changed, but it is always present and is of ever increasing importance as the productive power of men grows and their surplus is augmented.

Out of this fact arises the dilemma of modern economic thought. We instinctively feel that we ought to have a surplus over the cost of work and we also instinctively feel that others ought to work for cost prices. When we become producers we ask, "What will be the gain in this or that act of production?" thereby admitting that values are higher than costs and that each man's motive in production is the acquisition of some part of the surplus. Everyone would admit this and see nothing wrong in it, but when these same acts are passed in review as parts of public policy a standard of cost production is set up and the claim is made that cost prices are just prices. Either we are wrong as individuals to demand a gain in each act of production or we are wrong in asking that other people work for cost.

We remove this difficulty when we assume that the share of each claimant is fixed by the relative increase of his products. Years ago I stated the resulting theory of distribution as follows:

Of the factors necessary for production, that factor which tends to increase at the slowest rate will reduce the shares of the other factors to their lowest limits, will have the benefit of all improvements and must bear all permanent burdens.

This law is merely a corollary of the law of supply and demand. Given different rates of increase of products some must go down in price until their lowest limit is reached, while others will

rise until all the free surplus is absorbed. Falling prices are due to consumers' choices, and the more nearly complete this power of choice the more must competing producers lower their prices to get a market for their goods. High prices persist where no substitutes are at hand; low prices prevail where consumers' wants can be supplied in many ways. The slowly increasing factors in distribution are therefore in the fields where the power of substitution is poorly developed, while rapidly increasing factors correspond to the fields where the power of substitution is so nearly complete that low prices dominate. Factors in distribution thus fall into two classes: growing factors where the power of substitution fails, and the limited or losing factors where this power prevails.

It should be remembered that by a growing factor is meant one that is becoming a larger element in the price of commodities. In a progressive society all factors probably get more if we measure their total receipts, but many of them may at the same time be a smaller element in price and thus have reduced relative share even when the amount of their share is greater than before. The rent of a city lot, for example, may rise from \$1,000 to \$5,000 a year, and yet if ten times the amount of goods is produced on the lot this rent will be a smaller part of the price of each article produced. Rent may thus be a smaller part of the total value of goods, although its total amount is greater. By growing shares are meant only those which grow both in amount and in relative importance. These growing factors are at the same time the most slowly increasing factors, for the less the rate of increase of the product is, the more rapid is the growth of the share as an element in price. They gain what the power of substitution takes from other factors who have definite claims that must be allowed, but who cannot expand them so as to get a share in the social surplus created by improvement. Growing shares are thus residual claimants who absorb all the benefits of progress.

There are thus a number of limited claims due to the fact that certain shares are subject to definite laws, and there is a residual claimant that gets what is left because other factors fail to secure it. There are also factors whose shares are falling because the power of substitution is cutting down the price at which their products are sold; and there is a growing factor which gains what the pressure of competition takes from its rivals. With the aid of

these contrasts the place of the various factors in distribution becomes evident. The residual claimant is monopoly, the growing share is wages, while the shares that are limited and tending to fall in amount as society progresses are rent, profits, interest and risk. Where the power of substitution acts against the growth of a share the only problem is: What resists a fall in prices which if effected would wipe out the share? Definite laws of rent, profits and interest have been formulated which show what the lower limits of each share is. None of these limited shares can claim a larger amount of the gross product of industry than it now receives, and against them the power of substitution will act with increasing force. These shares can therefore be said to fall off with progress and in an ideal state of society to disappear if we assume that in such a society the power of substitution is complete and the environmental conditions of men are improved to their maximum.

The growing shares as we find them to-day are plainly monopoly and wages. There is, however, this difference between them: Wages at any one moment is fixed like the other limited shares. It is not, as President Walker taught, a residual claimant. And yet it is a growing claimant which secures in the end what the other shares lose. The more productive land is, the lower will be rent; the greater the ingenuity of inventors and industrial managers, the less enduring will be their reward, and the larger the productive power of capital the less will be the rate of interest. This is because the power of substitution cuts down the return of all effective agents except labor. Through the increase of their mobility the laborers substitute better opportunities of labor for the poorer ones they formerly utilized; they go from poorer land to the better land, from worn-out regions to those with increasing fertility, from mechanical occupations to those demanding skill and efficiency. They thus move from the margin of production that yields small returns to points of higher productivity, and by wiping out the old margin set a new standard for wages and force the public to pay them. The increase of wages is measured by the laborers' mobility, and wages will be a growing share in distribution so long as this agent is active in forcing new adjustments of population and in creating a wider spread of the knowledge that makes production efficient.

The laborers' advantage, however, does not end here. Another

potent force in raising wages is the socialization of the laborers taking place in every industrial group. The differentiation of industry throws into the various industrial groups men of similar character, education and ability. Like qualities and common interests create group feeling and generate a consciousness of kind which makes socialization possible. Groups thus formed ceasing to act as individuals must be dealt with as units. They will not compete with one another for places, nor undersell each other on the market. We have thousands of industrial groups of various kinds—high and low—so fully socialized that their joint action limits individual competition and gives a monopoly power to their members. This socializing tendency is not a disappearing force, but one that is growing so rapidly that it will soon be a dominant element in industry. When this time comes, or to the degree that it comes, the influence of marginal production on prices will cease. The competition that lowers prices is that of individuals within industrial groups. Marginal production assumes individual action on the part of each producer and individual interests that stand opposed to other producers. Should this competition cease the marginal man will no longer fix prices. Each group of producers will offer its joint product as before and the law of substitution will fix its value; but there will be no test of individual productivity by which the price of labor can be forced down. The growth of wages would be limited only by the productivity of industry.

Keeping in mind the increasing mobility of laborers and the growing socialization of industrial groups, it is evident that wages will steadily rise and that a rising standard of life will permanently keep intact the gains of each generation. Wants grow faster than productive power, creating an irresistible pressure that no other force can withstand. The power of monopoly, on the contrary, is temporary; each particular monopoly gains the ascendancy at the expense of some other monopoly. The losses from new monopolies never fall on the public,—they are borne by those who have lost the old powers that gave them a monopoly force. Monopoly temporarily increases with every improvement in production, but these gains soon fall away unless they are reinforced by those coming from the new improvements of industrial processes. Rapid progress means much monopoly; slow progress means its decay, and static conditions would lead to its disappearance. That industrial mo-

nopoly is more frequent and powerful than a century ago is the cost of rapid progress. Monopoly is the index of change and a sign of an increasing social surplus. It means no perversion of industrial forces, and is as natural a result as are any of the other phenomena of distribution.

Such is in outline the price theory of distribution with its corollary that industrial monopoly is a natural result of price movements. Is it correct, or is Professor Clark right in asserting that monopoly is "a general perverter of the industrial system"? The answer to this question constitutes the essential difference between the two theories of distribution that I have presented. Both theories also have definite consequences which have been clearly stated in recent discussions. Professor Clark's "Essentials of Economic Theory" gives a clear program that logically follows from the acceptance of the productivity theory and its corollary that cost prices are just prices. In my "New Basis of Civilization" I have outlined a program that seems to follow just as logically from the acceptance of the price theory of distribution.

The essence of Professor Clark's position is the belief that cost prices are just prices. Producers should get a fair return on their capital and no more. This doctrine is the basis of economic theories so well established that it has become a part of the popular consciousness. The difference in Professor Clark's view and that of earlier writers consists in the fact that he regards monopoly as an evil so powerful that if not destroyed the régime of natural prices will cease. Earlier writers believed that economic motives active in individuals would suffice to keep prices on a cost basis. He demands a regulation of monopolies. "It is perfectly safe to assert," he tells us, "that only by new and untried modes of asserting the sovereignty of the state can industry hereafter be in any sense natural, rewarding labor as it should, insuring progress, and holding before the eyes of all classes the prospect of a bright and assured future."¹ "Monopoly is not a mere bit of friction which interferes with the perfect working of economic laws. It is a definite perversion of the laws themselves. It is one thing to obstruct a force and another to supplant it and introduce a different one; and this is what monopoly would do. We have inquired whether it is necessary to let monopoly have its way, and have been able to

¹*Essentials of Economics*, p. 379.

answer the question with a decided *No*. It grows up in consequence of certain practices which an efficient government can stop."²

No one who accepts Professor Clark's principles can dissent from his conclusion. Monopoly will not disappear by any force that individuals can put in action. If the tendency of prices to rise above the cost level is wrong, he is a bad citizen who benefits by the higher range of prices. The control of prices thus becomes the first duty of the state to which its older function of securing justice and fair dealings becomes subordinate. In these views Professor Clark does not stand alone. He represents the great mass of American citizens whose spokesman is President Roosevelt. For the ideas of our President no better background can be found than the economic doctrines of Professor Clark, who has developed the side of economics on which popular beliefs rest into a simple, forceful system which gives a program for action demanded by the feelings and interests of the people. The public is fully convinced that just prices are cost prices and that government should increase its functions and become a regulator of prices.

The public, Professor Clark and the President are also agreed as to the fields where the cost prices are to be introduced. Railroad rates and the tariff are to be modified so that the cost of production shall fix prices. This means a physical valuation of railroads and a similar estimate of the costs which manufacturers must undergo in the United States. There seems to be a ready means of doing this by setting aside the watered stocks of railroads and the lowering of the tariff to a point where monopoly advantage ceases. But the lines between these fields are not so sharp as the President and Professor Clark suppose. Watered stock is a definite sum and in a single field, but watered costs is a general phenomenon. Every one thinks he earns what he gets, but he keeps his accounts in such a way that he exaggerates his costs until they seem equal to his income. As he views it, he has no unearned income similar to the watered stocks of railroads or the high prices of protected industries. But were the principle of physical valuation introduced and the functions of government so extended that it became the controller of prices, his costs would not be estimated by himself, but by others who would have the same interest in reducing them that he now has to do this for the railroads and protected indus-

²*Essentials of Economics*, p. 559.

tries. And we are not without those who demand an extension of the doctrine of physical valuation beyond the point set by Professor Clark and the President. The single tax doctrine applied to land has the same thought as has the physical valuation of railroads. The farmer thinks that land values depend on real costs, and the city land speculator has the same opinion as to town lots; but a public valuation of this property would cause the watered costs of the farms and city property to shrink to a lower point than would the values of railroads.

Professor Clark has a skilful way of hiding land values by subverting them under the general concept of capital, but if the doctrine of physical valuation is once introduced the public will soon be educated to the evils of watered land values, and the same demand will arise for its physical valuation. If the doctrine is correct and the fixing of prices is a duty of the state, the principle will gradually have its application extended until every kind of property is brought under governmental regulation, and no watering of stock or of costs will be allowed.

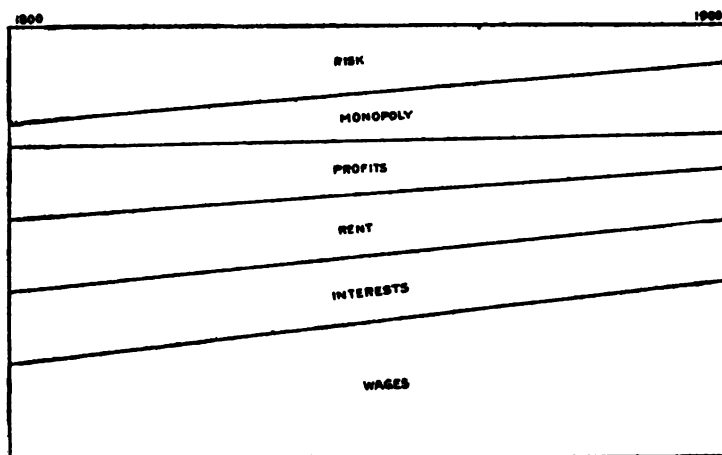
At present there are four classes of property that gain a relatively large share of the benefits of improvements and whose values and costs are most frequently watered. These are the railroads, protected industries, western farms and city land. A city lot valued at \$100,000 or a western farm that sells at \$100 an acre represents a higher proportion of watered values than do railroad stocks or the protected trusts. The application of the principle of physical valuation to railroads does not mean any advantage to the public so long as the same principle is not applied to farms and city lots. Low railroad rates mean a high value of western farms with higher rents and more congestion of population in eastern cities. Should the value of western farms go up to \$150 an acre because of lower rates, it does not mean that western farm laborers will get more wages, or that farm produce will sell at a lower price in eastern cities. Higher land values will push the country population into cities more rapidly than before and the pressure to lower wages will be strengthened. These conditions will make apparent the advantage of extending to land the same principle of physical valuation that landholders now want to have applied to railroad property and to protected industries.

The doctrine of costs prices, the physical valuation of property

and the control of prices by the state cannot but bring on a series of class conflicts in which the minority will suffer at the hands of the majority; for the kinds of property that are in the fewest hands will be those to which this principle will be first applied, and each other kind of property will be attacked in turn until the application of the principle is general. The dilemma of the principle of physical valuation is that a limited application of the principle does not aid the public; it merely lowers the value of one form of monopoly and raises that of some other. Farms go down in value as railroad rates go up. Land values in cities go up as tariffs go down. Some special class gains by the price changes which the introduction of cost prices in other quarters creates. The public gains nothing by these price conflicts, however the state settles them. To permit it to control some prices is to give it the power to favor special interests; on the other hand, if it control all prices the state becomes socialistic.

It is often said that the way to avoid socialism is to control particular prices such as railroad rates or tariff schedules; but this control will not help the public so long as other forms of monopoly remain undisturbed. Partial socialism does not cure socialism, because it does not remove the evils of which the public complains. It merely reduces the rate of progress, and thus, by the stagnation it creates, gives new strength to the demand for more thorough-going socialism. The line of cost is the line of bankruptcy, and the state must soon take over any industry or enterprise that must face unexpected costs but cannot retain extra gains. We cannot get free trade through low tariffs, cheap food through low railroad rates, lower house rents by reducing the price of street-car transportation, nor can we get natural low prices through state control of particular industries.

While monopoly cannot be prevented, its amount can be reduced by the increased power of substitution which improvements bring. The gains of monopoly are temporary, due to sudden increases of productive power. But each generation will see its sphere reduced, for the power of substitution constantly works against monopolies, as it works adversely to rent, profits and interest. Wages will gain what these shares lose, and will in each generation form a larger part of the price of commodities. The changes that time brings can be illustrated in a diagram, as follows:



The area of this diagram represents the total price of commodities, while the shares of the various factors are shown by the distances between the lines that divide the area into parts. The changes of the past century can then be pictured by the alterations in the distance between these lines. It shows that wages have steadily increased while rent, profits and interest have fallen off, not in amount, but in the part they play as elements of price. Special monopolies have increased in amount, but not in a way to increase prices, as the element of risk has decreased more rapidly than monopoly has increased. So long as the gains of special monopolies are not larger than the reduction of risk there is no transfer of income to them from any other class.

America is now at the point in its national development where these monopolies are at their maximum. Should a diagram of the price movements of the next century be made similar to the one just given, special monopolies would be a falling share like rent or interest, while wages would continue to rise even more rapidly than in the past. There is no danger of a permanent increase of industrial monopoly. The new forms that arise will displace those now existing as new forms of profits appear with each change in the industrial situation, only to disappear again with the spread of knowledge and efficiency. We can thus work away from a condition of monopoly through the alterations in industrial conditions, but we cannot crush monopoly nor make sudden reductions in its total amount. Public policies to be effective must reach it indirectly

by changes that increase the rate of progress. We cannot afford to check progress in order to test an untried principle in the distribution of wealth.

Thus far improvements in distribution have been effected by the slow diffusion of income and intelligence that follows the general uplift of mankind. Much more is to be gained by a redistribution of population so that the national resources will be better utilized than by any scheme for the forceful alteration of prices, or the redistribution of property. The real remedy for a bad distribution of wealth is more capital to develop our unused resources. We should have double the amount of capital invested in railroads and even more in our industries. The rate of return on capital that secures progress through new investments must be higher than the rate of return that preserves capital.

The redistribution of population following improvements in transportation will eradicate what now seems an evil in distribution, but which in reality has its cause in the present bad location of population and industry. The road to prosperity is not through class conflict, with its mulcting of the minority,—it is rather in social improvements that take men from the margin of production and place them in contact with better resources and in more favorable situations. Civilization is a change in conditions, not an increase in fighting power. It is a movement from conflict to harmony, from a brutalizing environment of individual discords to one of peace, sympathy, and co-operation. The power that moves the race forward is that which brings the feelings and interests of men into accord, which takes men from groups with local conflicting claims, and merges them into a solid, unified nation.

Only general far-reaching changes can give a new environment and free mankind from the depressing restraints that cause misery and poverty. Two plans for the increase of equality are open; either there must be a sacrifice of those having economic advantages in the hope that their loss will be a gain for others less advantageously situated, or there must be social work on the part of those economically favored directed towards a change in the conditions under which the poor live. Both plans have a morality, but one is the primitive morality of sacrifice, while the other is the economic morality of work. Both take income from the well-to-do; the one gives it to the poor to use as they will; the other takes

it to improve external conditions from which all benefit. Primitive justice demands the giving up of all we have for the poor; economic justice consists, not in giving up positions of advantage, but in creating similar positions for other people. It is only the extension of opportunity, the growth of efficiency, the spread of knowledge and the increase of health that can cause poverty to disappear and give a secure income to every family.

A program of social improvement thus demands work rather than sacrifice. Wages should be raised, not by giving income to workers in poor situations, but by moving them to positions of advantage in other localities and industries. Social work consists in moving people from the margin instead of aiding them at the margin. It takes men from places where poverty and disease oppress them and gives them the full advantage of a better position. It gives to the city worker the room, the air, the light and the water that the country worker has, but without his inefficiency and isolation. It gives more working years and more working days in each year, with more zeal and vitality in each working day. Health makes work pleasant, and pleasant work becomes efficient work when the environment stimulates men's powers to the full. Poor land must be made good land; desert land must be made to yield a generous return; the uplands must be turned into forests so as to protect the richer lands of the valleys; the unskilled worker must be transformed into an efficient citizen; the irregular trades into which marginal men flock must be safeguarded so that they will stimulate and elevate the worker instead of lowering his life and vitality. Children must be kept from work and women must have shorter hours and better conditions. Men can thus be moved from the margin and an equality secured through the more generous return which the new situations give. By these means the incomes and personal efforts of those favorably situated can reduce the evils of poverty without the destruction of the advantages upon which their welfare and the progress of society depend.

The nation can gain economic equality by moving forward; it can regain primitive equality by a reassertion of cost standards. A clear perception of this contrast will free the American people from the difficulties of their present situation. We cannot compromise between opposing programs for social betterment. We must do more work for others or suffer severe losses at their hands.

PART THREE

The Government and the Railways

THE PUBLIC AND THE RAILWAYS

BY HONORABLE MARTIN A. KNAPP,

CHAIRMAN OF THE INTERSTATE COMMERCE COMMISSION, WASHINGTON, D. C.

HOW THE STATES MAKE INTERSTATE RATES

BY ROBERT MATHER,

PRESIDENT ROCK ISLAND COMPANY, NEW YORK.

THE TREND OF GOVERNMENTAL REGULATION OF RAILROADS

BY EMORY R. JOHNSON,

**PROFESSOR OF TRANSPORTATION AND COMMERCE, UNIVERSITY OF PENNSYLVANIA,
PHILADELPHIA.**

THE NATION AND THE RAILWAYS

BY STUYVESANT FISH,

NEW YORK.

FIVE YEARS OF RAILROAD REGULATION BY THE STATES

BY GROVER G. HUEBNER,

HARRISON FELLOW IN TRANSPORTATION AND COMMERCE, UNIVERSITY OF PENNSYLVANIA, PHILADELPHIA.

**REGULATION OF FOREIGN COMMERCE BY THE INTERSTATE
COMMERCE COMMISSION**

BY WARD W. PIERSON,

INSTRUCTOR IN POLITICAL SCIENCE, UNIVERSITY OF PENNSYLVANIA, PHILADELPHIA.

THE PUBLIC AND THE RAILWAYS

BY HON. MARTIN A. KNAPP,

Chairman of the Interstate Commerce Commission, Washington, D. C.

In the whole range of public questions, no topic more fittingly deserves the consideration of this influential body, because none is of such vital consequence to all the people of our common country. At this time especially, when we are nearing the end, let us hope, of a period of violent and sometimes misdirected agitation, an agitation provoked by methods and practices long in vogue but now happily nowhere defended, when we may confidently expect an early and healthy reaction in public sentiment, it is peculiarly appropriate that the members of the American Academy should take the lead in councils of sanity, and lend their powerful aid to the development of sound and helpful policies.

Speaking for myself alone, and disclaiming any right to represent on this occasion the official body with which I am connected, there are two or three phases of this subject with which my mind is particularly impressed and to which, with your permission, I may briefly refer.

It is a fact so obvious and familiar as often to lose its significance that the advent of steam and electricity as substitutes for animal power was the most important and transforming event in the industrial history of mankind. It wrought an immediate and radical change in the elementary need of society, the means of distribution. The primary function was suddenly and radically altered, and a veritable new world of opportunity was opened to the enterprising and ambitious.

As time goes, this revolution has been phenomenally rapid. In the passing of a generation, as it were, the railroad and the steamship have transformed the whole realm of industrial and social life. They have enriched every occupation, given multiplied value to each pursuit, added incalculably to the means of human enjoyment, made our vast wealth possible. They are at once the greatest

achievement and greatest necessity of our modern civilization. But we do well to remember that this marvelous achievement has been accomplished by private enterprise and private capital, and that we must look—we certainly should look—to that same source for its further and adequate development. Far distant be the day when any thoughtful man will seriously contemplate a different national policy.

But if we rely, as we should, on private enterprise and private capital to sufficiently increase our transportation facilities, we must make that primary activity so attractive in its opportunity and its responsibilities that it will command for its management the best and ablest men the nation produces, and sufficiently lucrative to induce the necessary investment of money to supply our further requirements. In a word, we need our foremost men in this primary service and a vast amount of capital to make it adequately successful. This simply means, as I take it, that whatever may be our national or state policy in other respects, whatever regulations may be prescribed or obligations imposed, there must be the opportunity to charge rates which will give sufficient earnings to make the business fairly profitable and to attract the needful capital for its ample extension. Without regard to the personnel of railroad officials, without regard primarily to the interest of stockholders, but in the interest of public welfare and national prosperity we must permit railway earnings to be adequate for railway improvement at advantage and profit.

To my mind it is a most impressive fact, so great as to elude the grasp of imagination, that the railway traffic of the country fully doubled in the first seven years of this twentieth century. This enormous addition to the volume of transportable goods overtaxed, as you know, the existing facilities, and the resulting condition perhaps accounts for much of the hostility which has been manifested in various quarters. For the man who has raised something by hard labor, or made something with painstaking skill, which he could sell at a handsome profit in an eager market, and finds that he cannot get it carried to destination, and so sees his anticipated gains turned into a positive loss, is naturally exasperated and unthinkingly "blames it" on the railroads, and is ready to hit them with anything he can lay his hands to; and as

the state legislature seemed to be the most convenient weapon he wielded it for all it was worth.

I dwell upon this for a moment further, because it seems plain to me that the prosperity of the country is measured and will be measured by the ability of its railroads and waterways to transport its increasing commerce. With a country of such vast extent and limitless resources with all the means of production developed to a wonderful state of efficiency, the continued advancement of this great people depends primarily upon such an increase of transportation facilities as will provide prompt and safe movement everywhere from producer to consumer; and that we shall not secure unless the men who are relied upon to manage these great highways of commerce have fitting opportunity, and the capital which is required for their needful expansion is permitted to realize fairly liberal returns.

In connection with this I have another thought. It is an old story, but we are all impressed with the inequalities of human conditions. We know that the bountiful earth and the skill of men produce abundance for the comfort and happiness of all our people; and yet we find so many, alas! far too many, in approximate if not actual poverty. And I take it that the underlying social problem is to find some way, consistent with justice and the maintenance of our free institutions, to bring about the more equable diffusion of the bountiful wealth with which we are endowed.

Now as a practical matter what better step can we take or what better methods adopt than to see that the wage-earning classes of every description are liberally paid. More than three-fourths of all our people are wage-earners. Their ability to buy and consume makes the prosperity of the country; and if our laws, our institutions, our social customs, our public regulations, and, above all, our public sentiment, are such as to insure ample compensation to every class of wage workers, we thereby maintain and increase the consuming power of the vast majority of our people, and do more than in any other way to insure our future progress.

Now it happens, as you all know, partly from the nature of the calling, which appeals to the imagination of young men for its novelty and its opportunity, and partly because of the strength of railway labor organizations, which for the most part have been

prudently managed by astute and able leaders, that the general scale of wages in railway service has been materially higher than in corresponding private pursuits, and this in turn has doubtless had a strong reflex influence upon wages paid in private employment, so that those engaged in the fundamental industry, the one which ministers to the primary need of society, being fairly well paid, speaking at least in a relative sense, the influence is potent to hold up the wage scale in every sphere of private occupation. And so I not only want railway earnings to permit of rapid and sufficient railway extension, which increased facilities for comfort and convenience, for speed and safety, but I want all that to be accomplished by and connected with the most liberal compensation to an adequate force of competent employees.

Therefore it is a great satisfaction to me that at this critical juncture, under the abnormal and distressing conditions which have lately prevailed, arrangements have been made by which the wage scale in railway service is not to be invaded, at least until the lapse of time shows the necessity for resort to that method of reducing expenses; and I congratulate our railway friends and the country at large that means have been devised for carrying this great industry over this critical period without attempting a reduction in the wages of railway employees. And I am gratified that this has been the policy of railroad managers, because any other course would not only have affected the efficiency, the loyalty and the incomes of the million and a half of railway employees, but a reduction in the scale of wages in this public service would necessarily have had a very powerful effect in reducing wages in every grade of private employment, and thus unfortunately and as I think unnecessarily diminishing the purchasing power of a great majority of all our people.

A single word further. In the treatment of this great national question we should provide not only for the adequate enlargement of our transportation facilities, with the maintenance of a liberal and I trust a progressive scale of wages to railway employees, but we should also support the policy, which in my judgment is necessary to the desired result, of permitting a degree of associated action between railroads which existing laws unfortunately prevent. And to my mind there is no recommendation of our

great President which displays more practical sagacity or indicates a higher range of statemanship than his earnest appeal to the Congress to modify the absurd and mischievous anti-trust law. For the time has come, as I think, when we must by one means and another, as opportunity offers, find the best and least disturbing way of transforming our whole industrial life from the competitive to the cooperative basis. Therefore I welcome and applaud those measures of legislation, and that national policy supported by public opinion, which will give us more railroads and better railroads, more railway employees better paid, and the widest cooperation in the conduct of this public service.

HOW THE STATES MAKE INTERSTATE RATES¹

BY ROBERT MATHER,
President Rock Island Company, New York.

The widespread efforts of state legislatures and railroad commissions within the past two years to reduce railroad rates have presented many interesting phases to public observation. The extent and severity of the proposed reductions, the novel expedients adopted to prevent or to make difficult a review of the state action in the federal courts, the resulting conflict of judicial authority and the recent decision of the Supreme Court of the United States holding these expedients unconstitutional have kept the movement constantly in the public mind. Out of the many questions which discussion of the situation has evolved none are more interesting or important than those relating to the effect of state-made rates upon rates for interstate transportation. It is the purpose of this article not to show that the rate-making power of the states should be diminished or destroyed, or that this object, if desirable, can or cannot be accomplished under the federal constitution, but merely to state and to illustrate the proposition that, in fact, the states *do* make interstate rates.

The great movements of traffic in this country are eastward and westward. The volume of the westward movement has always been high-class merchandise,—dry goods, wearing apparel, groceries, hardware, and like articles. Formerly this was all produced in the East or imported through Atlantic ports; it is only within recent years that the larger cities in the West have become manufacturing centers.

When the evolution of our rate fabric began New York, Boston, Philadelphia and Baltimore were the bases of supply. Chicago, St. Louis, St. Paul, Omaha, and Kansas City owe their development as trade centers primarily to strategic location at the head of navigation, or at points where the trans-continental trails left the water-courses for the West, Northwest, and Southwest. They com-

¹Much of the matter and all the maps for this article were prepared by Mr. Theodore Brent, of the Traffic Department, Rock Island-Frisco Lines, Chicago.

menced as outfitting points for prospectors and settlers; their business was that of distributing through the new Western country the articles of commerce manufactured in or imported through the East; and that still constitutes a large part of their trade.

When railroads found their way to Chicago and St. Louis their rates were fixed largely by the water competition which met them on their arrival. Gradually railroads were constructed westward from these points and, as they reached common territory, the force of competition began to be felt. Intense rivalry developed between the distributing houses of Chicago and St. Louis, and pressure was brought to bear upon the railroads, both East and West, to keep the rate fabric so adjusted that goods, stored in and distributed from either city, might be laid down at any of the Missouri River points at substantially the same freight cost. The class-rates from New York to Chicago thus became the basis of measurement for all class-rates. The St. Louis rate was a fixed per cent higher, approximating the difference in the cost of reaching that point by water. The rates between the Mississippi River and Chicago on the one hand and the Missouri River on the other were fixed not at what would be a reasonable rate for the distance, but at what it was necessary to maintain in order that St. Louis and the lines leading through St. Louis might compete with Chicago for the expanding business of Kansas City, Atchison, St. Joseph, and Omaha.

In the territory west of the Missouri River the same process has been repeated, and rates are maintained in such relation not only that Kansas City, St. Joseph and Omaha may compete with each other, but that goods distributed from St. Louis and Chicago, as well as from the Eastern cities, may be handled through either Kansas City, St. Joseph or Omaha and laid down at the several consuming points at practically the same freight cost. In the Northwest this same competitive adjustment is maintained between Chicago, Duluth, Minneapolis and St. Paul. In the Southwest, Chicago, St. Louis and Kansas City must be kept on an even keel, and when Texas is reached, the whole adjustment is modified to meet the competition of coastwise steamers plying from New York to Galveston. To Colorado and Utah, the routes through all these gateways are kept in constant adjustment, and the rates so arranged that Denver and Pueblo are enabled to do a distributing business,

What is true of westbound merchandise is equally true of the movement to the East of the great staples raised in the West. The grain territory is so divided and rates are so made that grain may move freely to the Mississippi River, the lakes and the gulf, through the great storage centers of Minneapolis, Duluth, Chicago, St. Louis, Omaha and Kansas City. In like manner live stock rates are so arranged that the traffic may move freely to the rival packing centers of Kansas City, St. Joseph, Omaha, St. Paul, Chicago and St. Louis.

These rate relations are not the work of the traffic departments of the railroads. They do not exist by virtue of acts of legislatures or of orders of commissions. They are the resultants of the commercial growth of the country. Trade is established along these lines; industries and communities are founded on the basis of these adjustments, and their existence and prosperity depend upon the continuance of these rate relations. They are the controlling facts in all rate disputes—more stubborn than distance and as immovable as mountains.

There is hardly a rate on any article of commerce but feels the force of these competitive conditions. They absolutely dictate the traffic policy of the railroads operating in the territory affected by them. The carrier makes no rates that are not effectively moulded by these conditions, and the rate-making power of the Interstate Commerce Commission itself cannot ignore them. The only rate-regulating body that makes rates without reference to these commercial conditions is the legislature or the railroad commission of a single state. Its field of operations includes but a fraction of the territory whose traffic is controlled by these conditions; contains but few of the larger distributing centers which compete for that traffic; and is usually circumscribed, either wholly or in part, by imaginary boundaries fixed without regard to factors which exercise controlling influence upon the trend of traffic and of rates. The influence of lakes, of rivers and canals, the competition of rival markets, the relation between manufacturer and dealer, and other like forces that, in the making of rates, confront the traffic officer of an interstate railroad and the Interstate Commerce Commission itself, enter but slightly, if at all, into the calculations of the state. In every case, in the exercise of its rate-making power, distance is the one factor given serious consideration; and

the result of its labors is invariably the production of a distance tariff.

This state distance tariff, is, on its face, a simple and a harmless thing. The right of the state to make it and to change it at its will seems to be amply buttressed by the conceded principle of law that the power of Congress over interstate commerce leaves untouched the power of the states to regulate their purely internal commerce. And no simpler or less obnoxious method of exercising that power would seem possible than to prescribe the rates at which traffic shall move from point to point within the state.

But when the traffic officer of an interstate railroad comes to apply this state distance tariff, made for state use on purely local considerations, to the traffic that actually moves over his rails, he finds that he cannot confine its influence to traffic within the state, and that, against his will and without his action it readjusts his rates into and out of and through the state, and determines his revenue on traffic that never traverses the borders of the state. This is illustrated by the action of the following states:

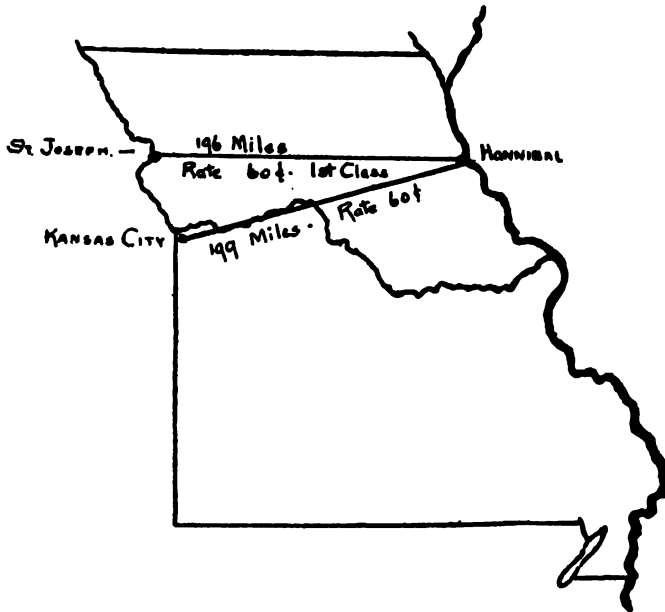
Missouri and Iowa

Missouri has a far-reaching control over interstate rates by reason of the situation of the state at the point of least distance between the Mississippi River—the basing line for rates from the East—and the Missouri River, the base line for rates to the West.

There are three factors which go to make up the rates from the East to the Western territory—whether or not they are published as through rates—namely, the rate from the seaboard to the Mississippi River or Chicago; the rate from the latter base line to the Missouri River; and the rate west of the Missouri River. Reduce the rate between the Mississippi River and the Missouri River and you reduce the rates on all business either locally or through or beyond these base lines.

The first-class rate between the Mississippi and Missouri Rivers practically determines the interstate rates on all classified articles moving between the East and West. It is at present 60 cents per 100 pounds, this being the figure fixed by the Missouri Railroad and Warehouse Commission as a reasonable maximum rate for the short-line haul of approximately 200 miles across the state from the Mississippi to the Missouri—the distance from Hannibal to St.

Joseph being 196 miles, and from Hannibal to Kansas City, 199 miles. Note the chart:



Though this rate is based on the distance of 200 miles, competitive conditions outside the state apply it at once to all hauls across the state, no matter what their distance. The short line from St. Louis to St. Joseph is 302 miles, and lines operating between those cities would be privileged, under the commission's maximum scale, to charge 74 cents, first class. The short line between St. Louis and Kansas City is 277 miles, for which distance the Commission's scale is 71 cents, first class. But here considerations enter which are entirely outside the horizon of the Missouri commission. The rates from New York to Hannibal and St. Louis are the same. There are routes leading from New York to St. Joseph and Kansas City, through both Hannibal and St. Louis. Kansas City and St. Joseph compete in the same trade territory, and the rates to both points from New York must be kept the same through all gateways. Consequently the Commission's maximum rate for the shortest distance becomes the rate between all four crossings:—



Thus the element of distance even between points within the state is immediately modified by outside forces, controlling with the carriers, but which exerted no influence upon the commission when it fixed the nominal measure of the rates.

Just north of Missouri lies the State of Iowa. To the untutored mind there would seem to be no reason why traffic of the same class should move within the State of Iowa for a less charge than within the State of Missouri. Yet the maximum charge under the Iowa distance tariff for hauling first-class merchandise 200 miles is 40 cents, as against 60 cents fixed by the Missouri tariff. The railroads in Iowa must haul the same class of merchandise 350 miles to be entitled to charge 60 cents, but, significantly enough, the 350 miles measure the distance in Iowa between the Mississippi and Missouri rivers, so that the rate between the two base lines is the same in both states. Should Missouri adopt the Iowa scale, the Missouri rate from the Mississippi River to the Missouri River, between all the points in Missouri that we have been considering, would, for the reasons already given, at once become 40 cents, regardless of distance.

The effect within the State of Missouri, however, is only the beginning. The rate between the Mississippi and Missouri rivers being, as previously explained, one of three factors of a through adjustment from points of production in the East; the rates from the East to all Mississippi River crossings being the same; there being competitive routes from the East to all Missouri River points passing through all of these Mississippi River crossings; and the merchants and manufacturers in the Mississippi River cities maintaining trade relations with all of the Missouri River cities and with the territory reached through them; it follows that the rate between Dubuque, Ia., and Kansas City, Mo., cannot be higher than the rate between Dubuque and Council Bluffs (both points within the State of Iowa); nor can the rate between St. Louis, Mo., and Omaha, Neb., be higher than the rate between St. Louis and Kansas City or between St. Louis and St. Joseph (movements wholly within the State of Missouri).

Thus from the act of the Missouri commission in reducing its distance tariff from 60 cents to 40 cents for 200 miles, the following results directly flow:

(a) The local *Missouri* rate from points on the Mississippi River to points on the Missouri River, regardless of mileage, is reduced from 60 cents to 40 cents;

(b) The local *Iowa* rate from points on the Mississippi River to points on the Missouri River (say Clinton to Council Bluffs, 350 miles) is reduced from 60 cents to 40 cents;

(c) The *interstate* rate from points on the Mississippi River in Missouri to points on the Missouri River in Iowa or Nebraska (say St. Louis to Council Bluffs or Omaha) is reduced;

(d) The *interstate* rate from points on the Missouri River in Missouri to points on the Mississippi River in Iowa (say Kansas City to Davenport) is reduced.

Not only this, but this Missouri commission rate for 200 miles fixes the maximum rate which the Missouri Pacific Railway may charge for its haul of 488 miles between St. Louis and Omaha, through Missouri, Kansas and Nebraska; and in like manner the rate of the Illinois Central Railroad for its haul of 703 miles between the same points, through the States of Missouri, Illinois and Iowa. See the map.

20 cents less, than from Chicago to Sioux City, and the same percentage relation must be maintained on the lowered scale.

The immediate result, then, of the fixing by the Missouri Commission of a maximum charge of 40 cents, first class, for the distance of 200 miles between Hannibal, Mo., and Kansas City, Mo., is to fix the rates for all routes shown on the accompanying map of what is termed Western Trunk Line territory:

The outline illustrates only the adjustment of first-class rates. In Western classification territory there are five numbered and five lettered classes, and the other classes all bear a certain percentage relation to the first-class rates. This is true to the extent that any considerable reduction in the rate on first class involves necessary proportionate reductions in the rates on other classes—the severity of any such reduction lessening, of course, as the rates themselves grow less; but the rates on all classes must go down if one goes down, so that the same fixed relation between the classes may be maintained on the lower as on the higher basis.

Similarly, the outline only illustrates the change in the adjustment between the principal basing points in Western Trunk Line territory. But around these basing points are grouped all the adjacent cities and towns; so that an adjustment once reduced from Chicago, or Peoria, or the Mississippi River to the Upper or Lower Missouri River points, a corresponding reduction results from all points, both of origin and of destination, held common with these basing points. So the reductions become automatic, covering all interstate movements throughout the whole territory pictured in the outline.

The illustration thus far deals only with the change in rates on business which may be termed purely local to the territory immediately embraced in the illustration—that is, business which has both origin and destination within the territory. We have not yet touched upon that volume of Eastern business to the Missouri River cities, to St. Paul and Duluth, and to the territory beyond as far west as the States of Utah, Idaho and Montana, or to the southwest including the State of Texas and Territory of New Mexico. Yet the rates on this business are quite as vitally involved. The competitive adjustment between Chicago, Peoria, Memphis, the Mississippi River, and the head of the lakes, as previously described, was originally evolved and has since been maintained in a measure to

permit this merchandise to move freely by all routes in this Trans-Missouri, Northwestern and Southwestern territory. Whenever the Western factors of the through rates to this territory are reduced, the rates on such through business fall simultaneously with the rates on the local business.

Merchandise for this western territory moves from the East by every conceivable route. Every all-rail line and every conceivable combination of rail lines publish the rates. During lake navigation daily boats carry this merchandise to Chicago, Milwaukee and the head of the lakes. It is handled by steamer in connection with rail lines from every South Atlantic port from Norfolk to Jacksonville. There is a steamer load despatched daily from New York and given to the rail lines at the port of Galveston, Texas. The rate fixed by the authority of the State of Missouri, between Hannibal and Kansas City, and based on purely local considerations, has its leveling effect upon the rates on every pound of this vast traffic. The next map shows the ultimate reach of the rate-making power of Missouri.

It is true that the illustration has proceeded thus far on the assumption that Missouri might make a reduction in its existing class rates, and not on the fact that such reduction has been made. But Iowa has precisely the same control over interstate adjustments that the illustration demonstrates Missouri to have, and as matter of fact East and West class rates are what they are to-day because Iowa some years ago prescribed 60 cents as the maximum charge, first class, for the haul within its borders between the Mississippi and the Missouri rivers. The Iowa distance tariff of 1887 actually measures to-day the revenues of the interstate railroads on all interstate freight passing into or out of or beyond that state.

Besides, Missouri has actually made radical reductions in other rates that illustrate as well the principle of our contention. The legislature of 1905 ordered drastic reductions of rates on grain, flour, lime, salt, cement, stucco, lumber, agricultural implements, furniture, wagons and live stock, and the legislature of 1907 added stone, gravel, and other commodities. The rates have not been published, as the constitutionality of the legislation is in question before the courts, but if the state's right to order the reductions is finally established, the interstate rates on these bulk commodities,

which constitute a large percentage of the carload tonnage of all Western carriers, will come down with them.

The reductions which will result in rates on grain will illustrate. The short line distance rate between the Missouri and Mississippi rivers will be reduced from 13 cents per 100 pounds, on wheat, and 12 cents per 100 pounds on corn and other grain, to $8\frac{1}{2}$ cents per 100 pounds on all grain. The State's action also calls for a reduction of a half cent per hundred pounds in the proportional rate on wheat between Kansas City and Hannibal. This proportional rate of 9 cents is the rate applied on all wheat coming from beyond the Missouri River, and, as in the case of the class rates, it is the pivotal rate in the whole adjustment. If the legislature's action is finally upheld, a readjustment of the whole rate fabric on Western grain will result. There is no more sensitive adjustment in existence than the grain rates. No single part of any of the through rates can be disturbed without disturbing the revenue on a large part of the whole movement.

Competition and market conditions require that the rates on grain from the States of Kansas and Nebraska shall be so adjusted that the grain raised in those states can move eastward freely through either of the primary markets at the Missouri River, Kansas City or Omaha. When these markets are reached, not alone the grain markets of the United States, but the foreign markets as well must be open to the producer, so that the Nebraska or Kansas producer may have the benefit of the best prevailing market price of the world to-day; and the adjustment must be maintained from day to day so that the large grain buyers may take the surplus grain into elevator storage, not only at the Missouri River, but at the large storage points at the Mississippi River, the Ohio River, the lake ports, the milling centers, and the Atlantic and Gulf seaboard, with the full assurance that when the demand makes Eastern or Southern shipment desirable he will have a parity of rates in either direction through any market. If the reduced rates are finally enforced the material reductions within the state will be insignificant compared with the automatic reductions in the interstate adjustment which must follow. The same reduction must be made from Omaha, not only to St. Louis but to the other Mississippi River crossings; to Peoria and Chicago, the gateways to the central states; to Louisville, Evansville, Cairo and Memphis, the market

points for all the southeastern states; to Little Rock, Texarkana, Fort Worth, Dallas and Shreveport, the principal market gateways for the States of Arkansas, Louisiana and Texas; and to Minneapolis, the largest of the milling centers. Any reduction in the rate to the Mississippi River and Chicago means just that much reduction in the revenue on grain moving to Boston, New York, Philadelphia, Baltimore and Newport News for export, as these rates are all made on the Mississippi River combination. And when these rates go down, a similar reduction is forced in the rate to Pensacola, Fla., Mobile, Ala., New Orleans, La., and Port Arthur and Galveston, Texas, for export.

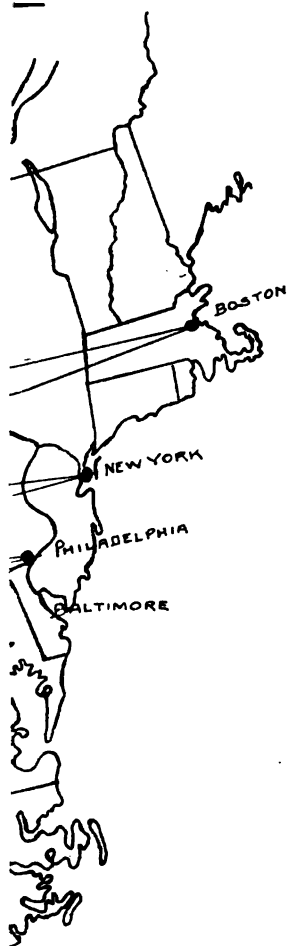
It has never been found feasible to carry local and proportional rates on the same basis, and there is therefore the probability of further reduction in the proportional basis. To what figure the proportional rate on wheat across Missouri might fall as the result of carrying a local rate of $8\frac{1}{2}$ cents is, of course, problematical. The rates up to this time have always been maintained about four cents lower than the local rates. The accompanying chart only illustrates the direct reductions in the existing proportional rates:

Kansas and Nebraska

During the year 1907 the railroad commission of Kansas forced a reduction of 15 per cent in the existing rates on grain within the state. A reduction in grain rates always applies as well on flour, meal and other grain products. The Nebraska commission forced a 15 per cent reduction in state rates, not only on grain and grain products, but on live stock, coal, lumber and fruits and vegetables.

Kansas and Nebraska do not consume a hundredth part of what they produce, and the great bulk of the commodities consumed within these states is produced outside of them. The freight destined from points of origin within either state and moving under the state's mileage rates to points of consumption within the state, is as nothing to that which moves to points beyond the state. That is to say, nearly all the traffic of both the states is interstate, and subject to the influence of the competitive interstate rate adjustment.

The products of Kansas and Nebraska find their primary markets (Kansas City, Kan., and Omaha, Neb.) on the Missouri River at the extreme eastern boundary of the state, and the state regulation fixes the rate at which the product is hauled from points of



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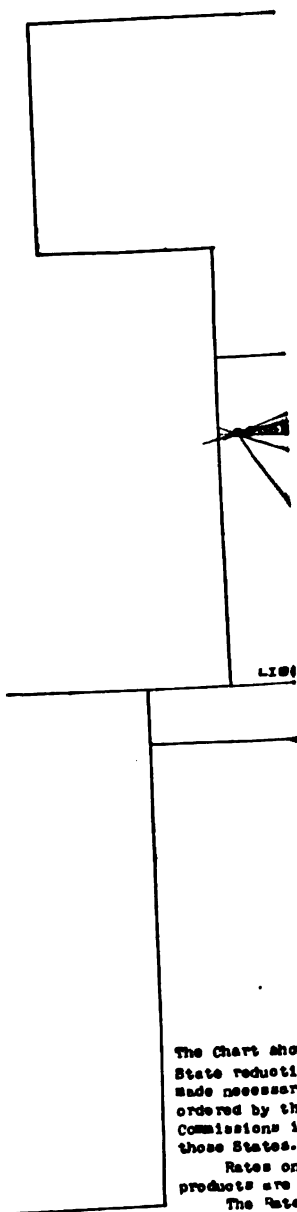
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production to these primary markets, no matter what the ultimate destination of the product may be. As a result, the 15 per cent reductions in the grain rates required by both state commissions, have called for a flat reduction of just that amount in all interstate rates, and a corresponding shrinkage in railroad revenues on practically all of the grain raised in both the states.

A contingent result is a horizontal reduction in the rates on Oklahoma grain. The Choctaw line of the Rock Island operates in Oklahoma under a charter which provides that its rates in that state must not be higher than they are in the states from which it enters Oklahoma. The line enters Oklahoma from Kansas, as well as from Arkansas, and the charter provision required an immediate adjustment of the Oklahoma rates on the Kansas scale. With the Oklahoma rates on the Kansas basis it was found impossible to maintain the adjustment formerly prevailing from points in Southern Oklahoma to points in Texas, and a readjustment there was necessary. Similar reductions of the rates to Arkansas points will be required.

The situation clearly illustrates the interdependence of state and interstate rates. The accompanying chart will give a partial illustration of the situation. It can, of course, picture the effect only at a few points. The reductions are general, affecting every point:

Texas

In Texas, state regulation of rates is deliberately designed to control the rates on interstate business both into and out of the state. There is, from the standpoint of the state, excellent reason for this policy; for, aside from its timber and a portion of its grain, little which Texas produces is consumed within the state, and the bulk of the food stuffs, wearing apparel and manufactured articles which its citizens consume or use are imported from other states.

The state commission has always conceived it to be to the state's interest to link its fortunes with the coastwise steamship lines rather than with the all-rail carriers reaching the state through its northern gateways. Consequently the commission has made the port of Galveston the radiating point in its adjustment. The class rates from the eastern seaboard have always been made the exact combination of the steamship rates from New York, Boston,

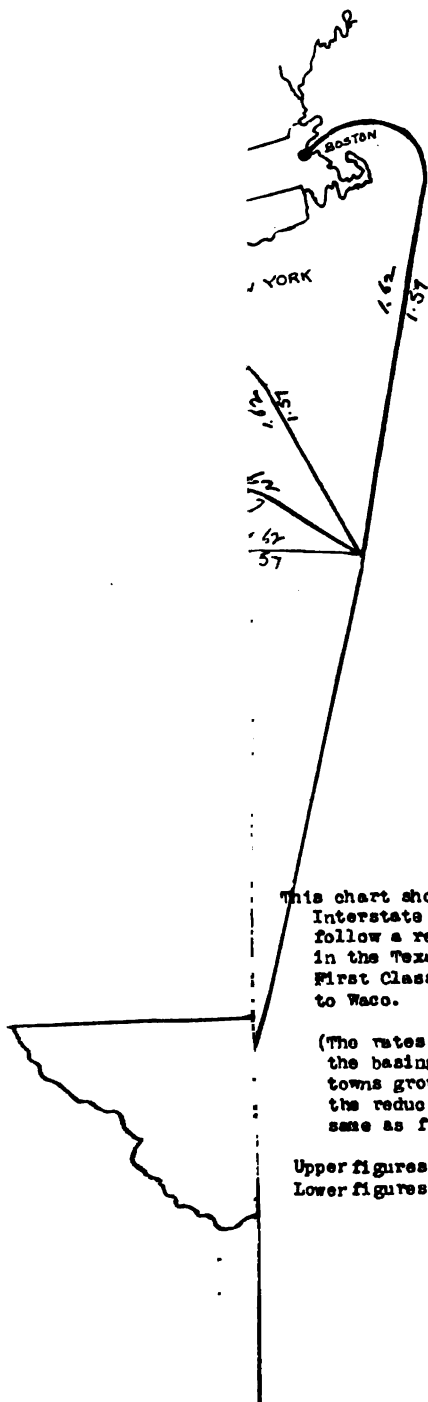
Philadelphia and Baltimore to the port of Galveston, plus the commission's local rates thence to every point in the state. This has forced the rail carriers to group all the producing territory west of seaboard territory, and to maintain a relative adjustment calculated to permit these territories to market their products in Texas in competition with the rates from the seaboard fixed for the rail carriers both in and outside the state by the Texas commission and the steamship lines.

It necessarily follows that whenever the Texas commission reduces a rate from Galveston the revenue of the state carrier on all Texas business originating at the Atlantic seaboard is lowered and the interstate carriers are compelled to make corresponding reductions from every other basing point. The immediate effect of a reduction of five cents in the commission's first class rate from Galveston to Waco is outlined in the accompanying chart:

Texas is above all a cotton-growing state. The wealth of its farming communities and the business of its cities are founded on the production and marketing of this staple. The revenues of the carriers within the state are largely dependent upon the movement of the cotton crop. Texas produces one-quarter of all the cotton grown within the United States. It has, however, no cotton-spinning industry worthy the name. Probably ninety-nine per cent of the cotton grown in the state is sent to New England and southeastern spinning points and to foreign countries. The revenues of the carriers on all this interstate and foreign cotton freight are absolutely dependent upon the rates fixed by the railroad commission of Texas to the port of Galveston.

Three years since, the commission ordered a reduction in cotton rates of 5 cents per 100 pounds or \$1.00 per ton. The movement from Texas to interstate and foreign destinations in the fiscal year ending June 30, 1906, was a million and a half tons. The direct result to interstate carriers from this one act of the commission has been an annual shrinkage in their revenues of something like a million and a half of dollars.

A cardinal principle in the three principal classification territories is that valuable commodities such as dry goods, notions, boots and shoes, hats, etc., shall take first-class rates, whether the goods are shipped in carloads or in less than carload quantities. There is no voluntary variation from this in any interstate adjust-



This chart shows the reduction in Interstate rates which would follow a reduction of Five Cents in the Texas Railroad Commission's First Class Rate from Galveston to Waco.

(The rates shown apply only from the basing points. All other towns group around these and the reduction from all is the same as from the basing point.)

Upper figures; Rates at present in effect.
Lower figures; Rates which would apply following the above mentioned reduction.

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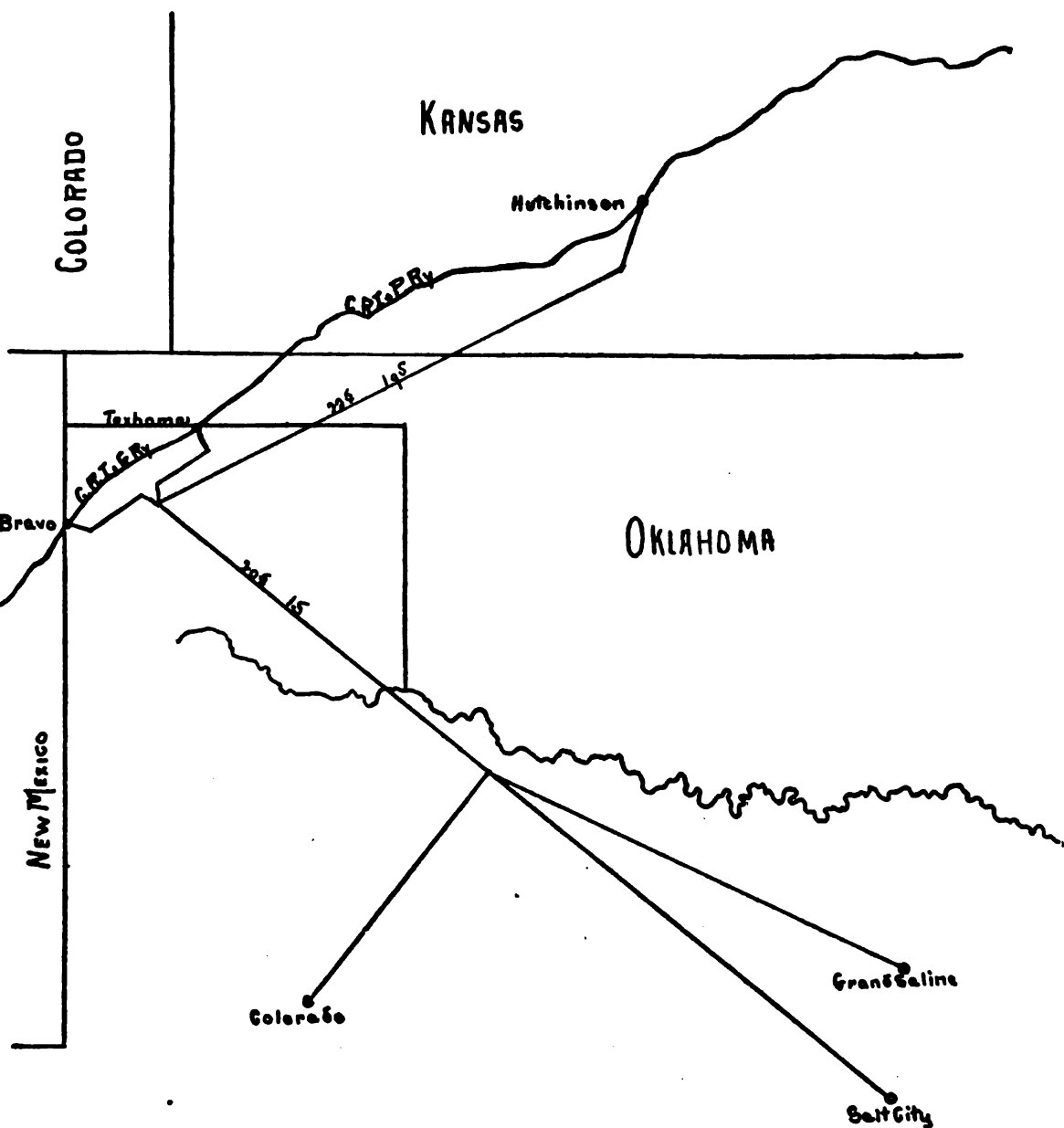
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ment. The principle has frequently been reviewed without disapproval by the Interstate Commerce Commission. The Texas Commission, however, has taken the opposite view, and in their state classification have fixed Class "A" basis on these commodities when shipped in carload quantities. This action on their part has no force or effect so far as concerns state traffic. None of these commodities are manufactured within the state and no house in the state jobs them in carload quantities. The State Commission's action does, however, reduce the interstate rate on these commodities from New York to interior Texas towns 37 cents per 100 pounds in car-load lots.

That the Texas Commission exercises its rate-making powers with deliberate intent to control the interstate rates for the benefit of its industries appears from the following illustration: The Rock Island has a line running southwest from the State of Kansas, passing diagonally across the Panhandle of Texas into New Mexico and on to El Paso. There are large salt industries on this line at Hutchinson, Kansas, and in the year 1905 the Rock Island, being asked to establish a reasonable rate from Hutchinson into its Panhandle towns, published an average rate of $19\frac{1}{2}$ cents. The average distance is about 300 miles. There are salt plants of considerable importance at Grand Saline, Salt City and Colorado, Texas, and under the State Commission's orders, the Rock Island, in connection with other lines, had in effect an average rate of $20\frac{1}{2}$ cents per 100 pounds from these state salt plants to the Panhandle towns. The average haul to these points is, from Grand Saline, 525 miles; from Colorado, 660; and Salt City, Texas, 690 miles. When the Rock Island's interstate rate came to the attention of the Texas Commission, it ordered the Rock Island's Texas line to non-concur in the reduction, threatening that if the interstate rate were allowed to stay in, they would compel the state carriers to haul salt from these state plants to the Panhandle points for 15 cents per 100 pounds. Needless to say, the interstate rate was withdrawn, and it remains to-day at the Texas maximum rate of $22\frac{1}{2}$ cents. The map illustrates the situation.

Illinois

Recent reductions in class rates in Illinois have forced reductions of the interstate rates between St. Louis, Hannibal, Quincy,



Average Mileage

From HUTCHINSON	300
• COLORADO	660
• GRAND SALINE	635
• SALT CITY	690

Texas Commission's emergency rate on SALT

Keokuk, Davenport and Dubuque, and will eventually force similar reductions in rates between intermediate local points either wholly interstate or wholly within other states than Illinois.

Arkansas

The Arkansas Commission has prescribed a full line of class and commodity rates which produce an effect on all the rates on merchandise brought into the state from points beyond, similar to the results of the Texas Commission's regulation of the rates in that state.

Minnesota

The Minnesota Commission has fixed a scale of class rates within the state which recently required the leveling down of all rates from Minneapolis, St. Paul and Duluth in Iowa and Dakota points. It was with respect to this situation that Judge Lochren said in the case before him involving the validity of these rates:

"It would seem to be very difficult to avoid . . . the conclusion that these rates fixed in respect to Minnesota do necessarily and directly affect interstate commerce. . . . I have no doubt that Congress might very properly, under the constitutional provision giving it the entire power of control over interstate commerce, assume control of the avenues of interstate commerce, of the railroads which are engaged in interstate commerce, and of all rates which are collected by those railroads, whether within the states or without the states, because the matter of those rates would affect these avenues of interstate commerce, and might affect their ability to continue as avenues of interstate commerce."

And as to this argument, urged before the Supreme Court in the Minnesota rate case, recently decided, the opinion of Mr. Justice Peckham says:

"Still another Federal question is urged growing out of the assertion that the laws are, by their necessary effect, an interference with and a regulation of interstate commerce, the grounds for which assertion it is not now necessary to enlarge upon. The question is not, at any rate, frivolous."

THE TREND OF GOVERNMENTAL REGULATION OF RAILROADS¹

BY EMORY R. JOHNSON,

Professor of Transportation and Commerce, University of Pennsylvania,
Philadelphia.

In speaking of the trend in the policy of the states and of the national government in the regulation of railroads it is not necessary to go back of 1870. In the early 70's there swept over this country a movement very similar to that which we have witnessed during the last five years: a demand for effective and thorough regulation of the railroads by the states. The legislation that resulted from the agitation was called the "Granger laws," because after the movement had started it was taken up and carried to success by the Patrons of Husbandry, popularly known as the Grangers.

In 1870, the position taken by the public, to some extent, and by the railroad corporations, almost without exception, was that the states did not have the authority to regulate railroad charges. The intensity of the Granger movement in the 70's was largely due to the feeling that it was necessary to prove that the states did have the power to regulate public service corporations. The authority asserted by the states was confirmed by the United States Supreme Court in the Granger decisions of 1876, so that over thirty years ago the principle was firmly established that all transportation rates are subject to legislative control.

Since then it has been a question not of power but of policy. The laws of the 70's, for the regulation of railroads, took three definite forms. One was the enactment of statutory rates—as was done by Iowa in 1874, and by Wisconsin in 1874, when the so-called Potter law was passed. Another method of rate control adopted at that time was the establishing of state commissions with the power to prescribe schedules of rates in some cases; in other instances with the authority only to revise railroad rates, fixed in the first instance by railroads. In some states, notably the eastern, commissions were created with general regulative powers, but without control over rates.

¹An address delivered at the Annual Meeting of the Academy, April 11, 1908.

It so happened that most of the Granger laws were passed during the five or six years of serious business depression which followed the panic of 1873. For that reason it was not difficult for those opposed to the laws to establish the contention that the laws had brought about a serious business condition in the railroad world. I do not think any considerable number of impartial students of economic history would now assert that the Granger laws had very much to do with the embarrassment of the railroads from 1873 to 1879. The railroads, like other forms of business activity, suffered from the conditions of the time. To some extent those laws might have contributed to the unhappy condition of the railroads, but the misfortunes of the railroads in the 70's were due primarily to their overspeculation in the past, and to the general business situation prevailing in this country from 1873 to 1879.

It was but natural, however, that a reaction from the early Granger legislation should take place. Many states that had first fixed railroad rates by statutory law repealed their acts. Some states which had established commissions with power to adjust rates took that function away from their commissions. Other states, like Illinois, maintained their commissions with the rate adjusting power. This was the second phase of the development of railway regulation in this country. It was a tendency toward more conservative legislation, a movement that lasted until about 1890.

Shortly before 1890, a movement for more stringent and thorough regulation of the railroads set in, and all the state commissions established from 1890 to 1906, and there were many of them, were what are called "strong" commissions, those having power not only to supervise railroads, but also to regulate their charges. Thus during the last twenty years we have been adhering to the principles, and to some extent to the practice, of the Granger legislation of the 70's.

This third phase of the government regulation of railroads has culminated in two rather distinct tendencies, one of which is the reenactment by many states, of laws fixing statutory railroad charges. These laws of the last five years have, with the exception of those of nine states, applied only to passenger fares.

The other recent tendency has been the establishment of corporation and public utilities commissions. Six years ago North Carolina and Virginia established corporation commissions, giving

to the same body of men power over banks, railroads and common carriers other than railroads. Last year the State of New York established its Public Utilities Commissions, one for the State of New York and the other for the City of Greater New York. These commissions have power over the charges and services of all public service corporations. The State of Wisconsin has also given its railway commission powers over public service corporations, and other states are debating the question. This movement represents the latest phase of the evolution of state regulation of railroads.

Along with the growth of the power of the states over transportation there has also gone on a development of national regulation of railroads. The federal act of 1887, although amended in detail from time to time, was not greatly changed until 1906, when the so-called Hepburn bill of the 29th of June was passed. That law expressing the mature judgment of the American people, who had given serious thought to the question for at least a decade, established in statutory form two fundamental principles. There were many minor provisions; but the two really important ones were those empowering the Interstate Commerce Commission to require uniform accounting, and to adjust railroad charges.

The Interstate Commission has prescribed uniform accounting, and the books of the railroad companies are now as open to the government as are the books of banking companies. The business of railroading has in a large measure ceased to be private, and has become open and public. This, in my judgment, is the most important provision in the Hepburn act.

The other new power given the Interstate Commerce Commission is the authority, upon complaint and investigation regarding an existing rate, to name a reasonable maximum rate which the carrier shall charge for a particular service. The commission is not given the general rate making function, but merely the power to make an adjustment, and its authority over charges can be exercised only on complaint and after investigation. Its action must be confined to particular rates.

The federal government now requires that interstate railroad rates shall be public, that the service shall be equitably performed and that the books of the railroads shall be open to the Interstate Commerce Commission. The law further stipulates that if, in the

management of that service, unreasonably high or unreasonably discriminatory rates are charged, they shall be adjusted by public authority. This is the present status of national regulation of railroads.

In the simultaneous development of the power of the states and the federal government, the two authorities have come into conflict to some extent, but the conflict of the states and the nation is due mainly to the fact that commerce has changed. The friction between the two authorities is but the natural consequence of the fact that trade and transportation have changed from state to national. It is quite true, as President Mather² has explained, that the states in fixing charges may exercise a very large influence over interstate rates. Every state commissioner and every state legislator ought to read President Mather's paper, because it would aid them in measuring the effects of their actions. If legislators and state commissioners know exactly what effects their laws and decrees produce they may generally be trusted to exercise their power with discretion.

It does not seem wise to go so far at the present time as to take away from the states, if it be possible to do so, by indirection or otherwise, their power over the commerce within their boundaries. We do not need to hasten the evolution of national authority. That will surely expand as fast as will be well for our national institutions. It is better, for the present at least, to conserve to the states in as full a measure as possible the powers they have over commerce.

Most of us will agree, I think, that the state two-cent fare laws were unwise, because not based upon sound principles. While I believe fully in the desirability of federal and state regulation of public service corporations, I am equally certain of the fundamental fact that the regulation of public transportation is an administrative function, and that it is unwise for the states to declare by statute what rates and fares shall be. Economic conditions change, what is reasonable one year may be unreasonable the next year, either in passenger fares or in freight rates. The true adjustment of charges to service can be brought about only by continuous administration, and not by the enactment of rigid statutes. In order to maintain

²Consult the preceding paper on "How the States Make Interstate Rates," by Mr. Robert Mather.

a reasonable relationship between services and charges, one that is just from the public point of view and equitable to the carrier, it is necessary to place in the hands of some competent and responsible commission the power to regulate the services and the rates of railroads.

There are, it is true, many people who believe it is not wise to give to a commission, state or national, the power to say what a railroad charge shall be. This is hardly the place to enter upon a discussion of that large question, and I must content myself with the mere statement that I believe the time has now come when we must accept not only the soundness of the theory, but the desirability of the practice, of investing in some public body the power to say to the carrier that his charge, from the public point of view, is or is not a reasonable one. Moreover, I do not believe that we thereby run into any serious danger.

The American people are conservative. Much is said about our radicalism, about the tendency of our legislators to follow public whims, but candidly is the charge true? Is it not rather the fact that the American people, in their attitude toward capital and labor, are on the whole and in the long run, conservative? Is it not a wiser policy to continue along the line of evolution which we have followed for thirty years, instead of reversing our policy because of the present temporary depression in business? I believe that we shall not turn back, but that we shall go ahead developing the power of the states and of the nation, so that they may bring about, as regards the regulation of transportation services and charges, the fullest measure of equity to carrier, to passenger, and to shipper.

THE NATION AND THE RAILWAYS

BY STUYVESANT FISH,
New York

Our country is pre-eminently the railroad country of the world. For over fifty years we have had more miles of railroad in operation than all Europe. In those well-settled countries the building of railways simply provided a cheaper and better means of handling an existing traffic. For us they have made a wilderness habitable, rendered its settlement and civilization possible, and created the traffic which they now carry. The amount of money invested in our railways exceeds that in any other one thing, except lands and buildings, and more of our people are employed in and about the railways than in any other pursuit except farming.

Our railroads, like those in England, have been built by private corporations, organized for that purpose and never by the government. It is said that the words "*periculum privatum, utilitas publica*" appeared on the seal of the first railway company incorporated in England; and with us, as with them, the risk has ever been private, although the benefit as well as the use has been public.

In the United States the building of railroads began in or just before 1830, at the close of which year there were twenty-three miles in operation. The vastness of our territory, the absence of wagon roads, and the inability of the states and the municipalities to build them, made the construction of railroads a prerequisite to the settlement and civilization of the interior. Liberal and perpetual charters, which often carried exemptions from taxation, were freely granted by all the states. Many of them ran largely into debt, and not a few into bankruptcy, in order to obtain these means of creating and developing commerce in what were then waste places.

In order to induce the investment of private capital in the construction of new railroads, the federal government began, in 1850, to make grants of public lands. Within about twenty years (from September 28, 1850, to March 3, 1871) Congress passed acts granting 159,125,734 acres, or 248,634 square miles, of public lands

for that purpose. This exceeds the present area of all the thirteen original states, excepting only South Carolina and Georgia, and is more than five times that of Pennsylvania. Only a part of these enormous grants became available through the actual construction of the railroads.

The need of transportation became such that during and after the Civil War, the federal government also issued its bonds for many millions of dollars in further aid of building new railroads. In the decade from 1860 to 1870 counties and towns bonded themselves in enormous sums to secure the development of their latent resources by the life-giving touch of the railway. Thus far all legislation, federal, state and municipal, has been in aid of the construction of additional railroads.

Down to 1870 our railroads had been operated as private corporations for gain without much if any regard to the public. The sole question seemed to be the profit to the stockholders. Then began the enactment of the so-called "Granger Laws." This was an effort on the part of the several states, each for itself, to reduce charges and secure better service and accommodations. When some states attempted to regulate rates from points within their borders to points in other states, the Supreme Court of the United States decided that no state had such authority, the constitution having granted to Congress the power "To regulate commerce with foreign nations, and among the several states, and with the Indian tribes." It then became necessary for the federal government to act, which resulted in the creation of the Interstate Commerce Commission under the "Act to regulate commerce," passed in 1887.

The act of 1887 forbade the railroads from pooling freight. This took away what had become perhaps the chief incentive to the building of new railroads, and more than any other thing has tended to concentrate the control of the railroads of the United States in the hands of a few. Down to 1870, and a little later, commerce by land "among the several states" had been absolutely free from governmental control, and, so far as the federal government is concerned, remained absolutely free until 1887. However we may differ about a tariff on imports from abroad, no one will question that free trade among ourselves has resulted in upbuilding the wealth and the strength of this nation.

In 1850 the United States already possessed more miles of railroad than England and France put together, and since about 1860 it has at all times had more than the whole of Europe. The granger legislation does not seem to have checked the building of new railroads. For while to the 30,626 miles in operation in 1860 there had been added in the next ten years (before the passage of the granger laws) 22,296 miles, or 72.8 per cent, there were added in the next ten years to the 52,922 miles in operation in 1870, 40,345 miles, or 76.23 per cent; and to the 93,267 miles in operation in 1880 there were in the next ten years added 73,436 miles, or 78.74 per cent. While I would not have you believe that it is wholly due to the efforts of Congress to regulate commerce, I do want to impress upon you the fact that in the next ten years there were only added to the 166,703 miles in operation in 1890, 27,559 miles, or 16.53 per cent. It may be that in 1890 the country already had enough railroads, but you will find difficulty in persuading citizens of localities not served by railroads to agree to that proposition. It seems to me that the legislation by Congress was not so much addressed to regulating commerce by rail, as to curtailing the profits of the business. However this may be, it certainly deterred the investment of fresh money in such enterprises, and thereby restricted the building of new railroads to those directly or indirectly controlled by the existing systems. With the single exception of a railroad from Kansas City to Sabine Pass, on the Gulf of Mexico, which has in the meanwhile been sold under foreclosure of mortgage, I can recall no considerable railroad which has been completed as a new and independent venture since the passage of the interstate commerce law in 1887.

Let us now see how the nation fared in the forty years from the first census taken in 1790 to the introduction of railroads in 1830, and later contrast its growth without railroads during that period with its growth after their introduction. In that period steam had been widely introduced as an efficient force in manufactures and in the propulsion of vessels. In the latter respect the United States already led every other country in the world in 1830. And yet in those years, or rather from 1800 to 1830, our imports of merchandise had fallen steadily at each decennial period from \$91,252,768 in 1800 to \$62,720,956 in 1830, and our exports of merchandise had not grown appreciably, having been

\$70,971,780 in 1800 and only \$71,670,735 in 1830. Concurrently the tonnage of American vessels built had fallen off nearly one-half, from 106,261 tons in 1800 to 58,560 tons in 1830. So also of the tonnage of American vessels in domestic and foreign trade, which, while increasing from 971,840 tons in 1800 to 1,190,983 tons in 1830, showed in the latter year a marked diminution as compared with 1820, alike as to domestic and foreign trade.

We may fairly say that at the genesis of our railroads, in 1830, neither the wealth nor the commerce of the United States was increasing normally. The census reports give no figures as to wealth for the years prior to 1850, but Mulhall estimates that in 1790 the wealth per capita in the United States was \$157.56, and that in 1830 it had risen to \$205.94, showing an increase in forty years of 30.71 per cent. This without railroads.

In 1870 the wealth per capita had grown to \$779.83, an increase in the forty years from 1830 of 278.67 per cent. Twenty years later, in 1890, under restrictions on railroads by state commissions, but still under absolute free trade between the states, the wealth per capita rose to \$1,038.57, showing an increase of 33.18 per cent. In the next ten years, from 1890 to 1900, under the added restriction of legislation by Congress as to railroads, the wealth per capita grew to \$1,164.79, but the ratio of increase in those ten years was only 12.15 per cent. We here see that the greatest ratio of increase in wealth per capita took place coincidentally with the greatest ratio of increase in railroad mileage under absolute free trade among the states; that the ratio of increase in wealth slackened somewhat in the period of the granger legislation, and more decidedly after Congress began to regulate commerce.

In saying this do not understand me as opposed to governmental regulation of railroads, but only as opposed to the form which it has taken in the United States. In so far as regulation by state commissions is concerned their action has, in the West at least, been hostile and generally narrow and selfish.

The regulation by Congress is to be criticised on other grounds. First, in that it has taken a direction which has resulted in repressing instead of stimulating the building of new railroads. Second, in that Congress, instead of regulating the whole business, has taken but part of it. And, third, in that the Interstate Commerce

Commission is an anomalous body of a character not known to or recognized under the constitution.

I.

I have already spoken of the lessened ratio of increase in miles operated since 1890, previous to which year the Interstate Commerce Commission exerted little if any influence on the business, and also of the effect which the act of 1887 had through forbidding the pooling of freight in taking away an incentive to the building of new railroads.

II.

The constitution provides that Congress shall have power "To regulate commerce with foreign nations, and among the several states, and with the Indian tribes." Acting thereunder Congress had at an early day legislated for the supervision of coasting vessels, and on the introduction of steamboats, in respect to them, even where plying solely on waters wholly within one state. But when Congress took over the supervision of railroads by passing the act of 1887, it expressly excepted from the provisions of that law transportation "wholly within one state." That Congress will eventually have to regulate this as well seems to me inevitable, even though many believe a constitutional amendment necessary to that end.

I am not a lawyer, and candor compels me to say that I have not met one member of that profession who believes as I do, that the power given to Congress to regulate commerce among the states carries with it everything which rises to the dignity of "commerce" as distinguished from "petty trade."¹ The lawyers tell me

¹Since preparing this address I was, yesterday (April 10, 1908), privileged to read an address delivered by the Hon. Charles F. Amidon, Judge of the United States District Court for the District of North Dakota, before the American Bar Association, in Portland, Maine, last August, on "The Nation and the Constitution," from which I quote as follows:

"The severest critic of railroads cannot deny that their policy has been splendidly national, and the most potent single factor in the creation of our vast domestic commerce."

• • • • •
"How far may the national government go in the control of those matters which have become in fact national? The situation fits exactly the terms of the resolution passed in the convention that framed the constitution, and which was the source of all the powers and restrictions embodied in that instrument. It presents a case to which the separate states are incompetent and in which the

that the question has been settled over and over again by the Supreme Court of the United States, beginning with the leading case of *Gibbons v. Ogden*, decided in 1824. I have recently read with some care the arguments in that case, and the opinion of the court by Chief Justice John Marshall, as well as the opinion of Mr. Justice William Johnson, in which the latter, while concurring in the judgment entered in the cause by his five associates, says that he reached the conclusion by different views on the subject. The words in the opinion of the court which are generally quoted are, "The completely internal commerce of a state, then, may be considered as reserved for the state itself." Undoubtedly those words are there, but as we will see shortly, the context of the opinion takes a broader view. The judgment of the court was that commerce covers navigation, including transportation, which service is at present performed by railways in utter disregard of state boundaries. All this seems to me as a layman to render the dictum of the court above quoted no longer literally binding. The court said (9 Wheaton, 187):

As preliminary to the very able discussions of the constitution, which we have heard from the bar, and as having some influence on its construction, reference has been made to the political situation of these states, anterior to its formation. It has been said that they were sovereign, were completely

harmony of the United States may be interrupted by the exercise of individual legislation.' As to railroads there is no more reason why they should be subject to a divided authority than there is in the case of navigation. There will, of course, be in the one case as in the other, local matters that can be best dealt with by local authority. But as to all that affects them as commercial agencies, whether that commerce be local or interstate, the railroad is a unit; its activities are national, and it ought to be subject solely to national authority. Divided control is inefficient in protecting the public and grossly unjust in the burdens which it places upon the carrier. During the last winter there were passed in the states west of the Mississippi River one hundred and seventy-eight statutes dealing directly with transportation and its instrumentalities. The number of such statutes now in force throughout the entire country extends well into the thousands. They are conflicting, oppressive, inefficient. They seldom represent intelligent investigation, but in the main have had their origin in agitation, often in popular frenzy. State legislatures have not yet learned that due process of legislation, like due process of law, proceeds upon inquiry, and legislates only after hearing. Protection to the public and justice to the carrier alike unite in the demand for a single governmental control. The power under the commerce clause of the constitution is plain. The decisions of the Supreme Court have placed that subject beyond the realm of controversy. If the railroad as an instrument of commerce can only be dealt with justly and efficiently by a single authority the federal government may assert and maintain its exclusive jurisdiction. Regulation is now inefficient because divided. If the federal government shall take exclusive control, it will then be responsible alone for such a control as shall be both efficient and just."

independent, and were connected with each other only by a league. This is true. But when these allied sovereigns converted their league into a government, when they converted their congress of ambassadors, deputed to deliberate on their common concerns, and to recommend measures of general utility, into a legislature, empowered to enact laws on the most interesting subjects, the whole character in which the states appear underwent a change, the extent of which must be determined by a fair consideration of the instrument by which that change was effected.

(193):

The word used in the constitution, then, comprehends, and has been always understood to comprehend, navigation within its meaning; *and a power to regulate navigation is as expressly granted as if that term had been added to the word "commerce."*

To what commerce does this power extend? The constitution informs us, to commerce "with foreign nations, and among the several states, and with the Indian tribes."

It has, we believe, been universally admitted that these words comprehend every species of commercial intercourse between the United States and foreign nations. No sort of trade can be carried on between this country and any other to which this power does not extend. *It has been truly said, that commerce, as the word is used in the constitution, is a unit, every part of which is indicated by the term.*

If this be the admitted meaning of the word, in its application to foreign nations, *it must carry the same meaning throughout the sentence, and remain a unit*, unless there be some plain intelligible cause which alters it.

The subject to which the power is next applied is to commerce "among the several states." The word "among" means intermingled with. A thing which is among others is intermingled with them. Commerce among the states cannot stop at the external boundary line of each state, but may be introduced into the interior.

It is not intended to say that these words comprehend that commerce which is completely internal, which is carried on between man and man in a state, or between different parts of the same state, and which does not extend to or affect other states. *Such a power would be inconvenient, and is certainly unnecessary.*

Comprehensive as the word "among" is, it may very properly be restricted to that commerce which concerns more states than one. The phrase is not one which would probably have been selected to indicate the completely interior traffic of a state, because it is not an apt phrase for that purpose; and the enumeration of the particular classes of commerce to which the power was to be extended, would not have been made had the intention been to extend the power to every description. The enumeration presupposes something not enumerated, and that something, if we regard the language or the subject of the sentence, must be the exclusively internal commerce of a state. The genius and character of the whole government seem to be, that its action is to be applied to all the external concerns of the nation, and to those

internal concerns which affect the states generally; but not to those which are completely within a particular state, which do not affect other states, and with which it is not necessary to interfere, for the purpose of executing some of the general powers of the government. The completely internal commerce of a state, then, may be considered as reserved for the state itself.

But, in regulating commerce with foreign nations, the power of Congress does not stop at the jurisdictional lines of the several states. It would be a very useless power if it could not pass those lines. *The commerce of the United States with foreign nations is that of the whole United States. Every district has a right to participate in it.* The deep streams which penetrate our country in every direction pass through the interior of almost every state in the Union, and furnish the means of exercising this right. If Congress has the power to regulate it, that power must be exercised whenever the subject exists. If it exists within the states, if a foreign voyage may commence or terminate at a port within a state, then the power of Congress may be exercised within a state.

This principle is, if possible, still more clear when applied to commerce "among the several states." They either join each other, in which case they are separated by a mathematical line, or they are remote from each other, in which case other states lie between them. What is commerce "among" them; and how is it to be conducted? Can a trading expedition between two adjoining states commence and terminate outside of each? And if the trading intercourse be between two states remote from each other, must it not commence in one, terminate in the other, and probably pass through a third? *Commerce among the states must, of necessity, be commerce with the states.* In the regulation of trade with the Indian tribes the action of the law, especially when the constitution was made, was chiefly within a state. *The power of Congress, then, whatever it may be, must be exercised within the territorial jurisdiction of the several states.* The sense of the nation on this subject is unequivocally manifested by the provisions made in the laws for transporting goods, by land, between Baltimore and Providence, between New York and Philadelphia, and between Philadelphia and Baltimore.

We are now arrived at the inquiry, What is this power?

It is the power to regulate; that is, to prescribe the rule by which commerce is to be governed. This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations, other than are prescribed in the constitution. These are expressed in plain terms and do not affect the questions which arise in this case, or which have been discussed at the bar. *If, as has always been understood, the sovereignty of Congress, though limited to specified objects, is plenary as to those objects, the power over commerce with foreign nations, and among the several states, is vested in Congress as absolutely as it would be in a single government, having in its constitution the same restrictions on the exercise of the power as are found in the Constitution of the United States.* The wisdom and discretion of Congress, their identity with the people, and the influence which their constituents possess at elections, are, in this, as in many other instances, as that, for example, of declaring war, the

sole restraints on which they have relied, to secure them from its abuse. They are the restraints on which the people must often rely solely in all representative governments.

The power of Congress, then, comprehends navigation within the limits of every state in the Union; so far as that navigation may be in any manner connected with "commerce with foreign nations, or among the several states, or with the Indian tribes." It may, of consequence, pass the jurisdictional line of New York, and act upon the very waters to which the prohibition now under consideration applies.

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The sole question is, can a state regulate commerce with foreign nations and among the states while Congress is regulating it?

The court then went on to show why a state cannot regulate commerce with foreign nations and among the states while Congress is regulating it.

It is the failure of Congress to also take over the internal commerce within one state which makes necessary the continued existence of state commissions. This, to my thinking, has greatly lessened and weakened the good which might have come to the nation, and to the railways as well, from a proper regulation by one central authority of the one thing "commerce among the several states."

Under its constitutional power, "to establish post-offices and post-roads," Congress long since established as post-roads "All railroads, or parts of railroads, which are now, or hereafter may be, in operation." This regardless of whether they cross state lines, or lie and are operated "wholly within one state." (See Revised Statutes, section 3964.)

III.

The chief reason why more has not been accomplished by the Interstate Commerce Commission lies in the fact that the commission, being executive, or administrative, was, under the law of 1887, also given judicial powers, and under the act of 1906 has been given, in addition, the purely legislative power of fixing rates. The commission is greatly weakened and embarrassed by this mingling in its hands of the functions of each of the three branches of government, which the people, in establishing their constitution, so plainly ordained should forever be kept separate.

As if foreseeing what has taken place in our day, Washington, in his Farewell Address, said :

It is important, likewise, that the habits of thinking, in a free country, should inspire caution in those intrusted with its administration, to confine themselves within their respective constitutional spheres, avoiding, in the exercise of the powers of one department, to encroach upon another. *The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism.* A just estimate of that love of power, and proneness to abuse it which predominates in the human heart, is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal, against invasions by the others, has been evinced by experiments, ancient and modern; some of them in our own country and under our own eyes. *To preserve them must be as necessary as to institute them.* If, in the opinion of the people, the distribution or modification of the constitutional powers be, in any particular, wrong, let it be corrected by an amendment in the way which the constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed.

Do not understand me as suggesting that the intelligent and honorable men who are and have been members of the Interstate Commerce Commission have attempted to usurp power, but only that all the other branches of government, and particularly the courts, look with disfavor upon the exercise by one body of these three functions of government.

Washington's plea to his fellow-countrymen on behalf of the constitution was addressed not only to their patriotism but to their pocketbooks. To guard against the despotic encroachments of one branch of government on the others is to-day our duty and our interest. But what are we as a nation doing in respect to the corporations which carry our domestic commerce by rail? Nearly every state has legislated and is legislating, not for the regulation of the railroads as a whole but selfishly in respect to those within its borders and chiefly in the direction of the curtailment of the profits of the business, and our National Congress is aiming to do the like. Congress has gone so far toward what Washington called creating a despotism as to authorize one body, the Interstate Commerce Commission, to exercise legislative, executive and judicial functions! Not satisfied with this it is seeking to restrict the

hours of labor; to take from the railroad companies (which the law requires to safely conduct their business) the right of selecting their employees, and to lessen among such employees the measure of care which they have heretofore exercised over the safety of the passengers and goods in their charge. What does fining a railroad corporation effect except to lessen the profit of the innocent stockholders and diminish the inducement to build new railroads, or extend and better old ones?

There is in the highest and truest sense "an indissoluble community of interest" between the nation and the railways. The real owners of the latter are our own people and as much entitled to the fostering protection of our laws, federal and state, as are any other individual citizens. That our courts are of this way of thinking is well known. One of the judges of the Supreme Court of the United States, Mr. Justice Brewer, in an opinion rendered a fortnight ago, in the case of *Interstate Commerce Commission v. Chicago and Great Western Railway*, said:

It must be remembered that railroads are the private property of their owners; that while from the public character of the work in which they are engaged the public has the power to prescribe rules for securing faithful and efficient service and equality between shippers and communities, yet in no proper sense is the public a general manager. As said in *Int. Com. Com. v. Ala. Mid. R. R. Co.*, 168 U. S. 144, 172, quoting from the opinion of Circuit Judge Jackson, afterwards Mr. Justice Jackson of this court, in *Int. Com. Com. v. B. & O. R. R. Co.*, 43 Fed. Rep. 37, 50:

"Subject to the two leading prohibitions that their charges shall not be unjust or unreasonable, and that they shall not unjustly discriminate so as to give undue preference or disadvantage to persons or traffic similarly circumstanced, the act to regulate commerce leaves common carriers, as they were at the common law, free to make special rates looking to the increase of their business, to classify their traffic, to adjust and apportion their rates so as to meet the necessities of commerce and of their own situation and relation to it, and generally to manage their important interests upon the same principles which are regarded as sound and adopted in other trades and pursuits."

It follows that railroad companies may contract with shippers for a single transportation or for successive transportations, subject though it may be to a change of rates in the manner provided in the Interstate Commerce Act—*Armour Packing Co. v. The United States*, *ante*,—and also that in fixing their own rates they may take into account competition with other carriers, provided only that the competition is genuine and not a pretense. (Citing authorities.)

It must also be remembered that there is no presumption of wrong arising from a change of rate by a carrier. The presumption of honest intent

and right conduct attends the action of carriers as well as it does the action of other corporations or individuals in their transactions in life. Undoubtedly when rates are changed the carrier making the change must, when properly called upon, be able to give a good reason therefor, but the mere fact that a rate has been raised carries with it no presumption that it was not rightfully done. Those presumptions of good faith and integrity which have been recognized for ages as attending human action have not been overthrown by any legislation in respect to common carriers.

It is high time that our legislatures, federal and state, should call a halt and consider the real interest of our whole people. That there is much of wrong in railroad management I am free to admit. But now that rebating and other discriminations have been stopped, not at all through the passage of new laws but through the enforcement of old ones, the wrong is no longer to the public, but consists almost entirely of frauds committed by the managers,—presidents and directors,—on the stockholders who have irrevocably dedicated their private means to a public use. Against breaches of trust committed by officers and directors, on their stockholders, the common and the statute laws provide abundant remedies. But in the administration of those laws practices have grown up, which make it almost impossible for the minority to assert and maintain their rights against a majority in power.

As I said here, in Philadelphia, a year ago, in an address before the Wharton School of Finance and Commerce of the University of Pennsylvania, "No railroad fortune was ever made through enhancing rates, oppressing shippers, or withstanding the general tendency of rates to decrease. And what is more, every dishonest railroad fortune has been made, not by oppressing shippers, but through robbing the stockholders. Should you ask why these stockholders have not sued for restitution, I would remind you of the cost and delay of such litigation, and of the fact that if restitution should be made, it would be to the corporation, of which in all probability the same persons would remain in control, as the majority holders and as officers and directors, so that the funds restored would simply revert to their custody and their tender mercy."

It has been shown that the increase in the wealth per capita has grown with the growth of our railroad mileage. The nation and the railways to-day confront a period of depression in which

each needs to husband all its resources. Not long after the Civil War a distinguished Southern Senator, later known as Mr. Justice Lamar of the Supreme Court, in his epoch-making eulogy on Charles Sumner, said, "My countrymen, come to know one another and you will come to love one another." Can we do better than to hope that through discussions such as we are having to-day, the nation and the railways may come "to know one another and to love one another" for the mutual good of both?

FIVE YEARS OF RAILROAD REGULATION BY THE STATES

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In 1902, the Interstate Commerce Commission, in an exhaustive report, tabulated the laws which the state legislatures for twenty years past, had enacted for the control of their common carriers. Since then, five legislative years have passed, and at no other time of equal length in the history of state railroad control, have the commonwealth legislatures enacted more railroad laws than during the last half of this period. In half a decade, over eight hundred separate provisions were enacted to regulate the common carriers engaged in intra-state traffic.

For purposes of analysis, the chief provisions may be classified into six groups: (1) The newly created commissions; (2) Amendments to older commission laws; (3) Freight rate and passenger fare acts; (4) Acts designed to regulate the service of public carriers; (5) Corporate affairs, and (6) Public safety.

(1) *Newly Created Commissions.*—While in 1902 there were thirty-one state¹ railroad commissions, at present there are thirty-nine. As seven of the old commissions,² however, were displaced by bodies vitally different, it is permissible to say that during the last five years fifteen new commissions were created.

For purposes of comparison these newly created commissions may be divided into four groups. First, and most numerous, are those whose rate fixing authority, consists of the power to revise rates as distinct from the power to make complete schedules. The commissions of Wisconsin, Ohio, Colorado, Michigan, Nevada, New York, Oregon, and Vermont, are of this type. In these states, the work of making the complete schedule of rates for the intra-state traffic

¹Including Virginia Corporation Commission, created by constitution in 1902, but not appointed until 1903.

²The commissions of Wisconsin, Ohio, Colorado and Michigan consisted of but one commissioner; those of New York, Alabama and Vermont were displaced by new commissions.

remains in the hands of the railroad traffic agents. If, however, a shipper, an agricultural, trade or manufacturing organization, a municipality or other corporation, as designated in the various statutes, makes a complaint to the commission that a particular rate or specified rates are unjustly high or discriminatory, the commission investigates the matter, calls witnesses, has experts examine the railroad's accounts and holds formal hearings. If it finds the complaint well-founded, it orders the railroad to substitute, for the particular rate complained of, rates which the commission considers reasonable. Commissions of this type may issue mandatory orders^a only upon complaint, and after hearings have been held, they may investigate any rate upon their own initiative, but in that case may merely recommend. Their duty is not to make schedule of rates, but to correct whatever flaws may be found on the schedules as made by the railroads.

TABLE I.
ORGANIZATION AND SCOPE OF THE COMMISSIONS

STATE.	Year.	How chosen.	Term years	No.	Power to fix rates.	Classification.	Joint rates.	Express cars.	Private cars.	Industrial R. R.
Indiana	1905	App.	4	3	Yes	Yes	Yes	Yes	Yes	.....
Washington ..	1905	App.	6	3	Yes	Yes	Yes	Yes	.....	.....
Wisconsin.....	1905	App.	6	3	Yes	Yes	Yes	Yes	Yes	Yes
Ohio.....	1906	App.	6	3	Yes	Yes	Yes	Yes	Yes	Yes
Colorado.....	1907	Elec.	6	3	Yes	Yes	Yes	Yes	Yes	Yes
Michigan.....	1907	App.	6	3	Yes	Yes	Yes	Yes	Yes	Yes
Montana.....	1907	Elec.	4	3	Yes	Yes	Yes	Yes	Yes	.....
Nebraska.....	1907	Elec.	6	3	Yes	Yes	Yes	Yes	Yes	.....
Nevada.....	1907	App.	3	3	Yes	Yes	Yes	Yes	Yes	Yes
New York.....	1907	App.	5	5 & 5	Yes	Yes	Yes	Yes	Yes	Yes
Oregon.....	1907	Elec.	4	3	Yes	Yes	Yes	Yes	Yes	Yes
New Jersey.....	1907	App.	6	3	No	No	No	.....	.....	.....
Pennsylvania ..	1907	App.	5	3	No	No	No	Yes	Yes	.....
Alabama.....	1907	Elec.	4	3	Yes	Yes	Yes	Yes	Yes	Yes
Vermont.....	1907	App.	6	3	Yes	.....	.....	Yes	Yes	Yes

The second type of the newly created commissions includes those which have the power to make complete rate schedules for all purely state traffic. Washington, Indiana, Montana, Nebraska and Alabama have granted this power to their respective commissions and made it their duty. In making the initial rate schedules these commissions exercise far more drastic powers than those of the first type, for they act upon their own initiative and make schedules instead of corrections. After their schedules are inaugurated,

^aWisconsin commission may investigate, call hearings and issue orders upon its own motion.

complaints may be brought as in the case of the commissions which merely revise rates, and the railroads may likewise make complaints. The order of procedure is then similar to that above explained, with the one marked difference *i. e.*, the complaint in the eight states of the first type is usually against rates made by the railroad freight agent, while in these states, it is against rates made by the commission.

The third type consists of the so-called "weak commissions,"—those which do not have the power to fix rates. In 1902, ten, or one-third of the state commissions were still of this character, but of the fifteen newly created commissions, but two, those of Pennsylvania and New Jersey, are "weak." The Pennsylvania commission investigates rates, makes its findings public and recommends certain charges to the carriers. If its recommendations are not voluntarily accepted, the commission has no mandatory power; it brings the matter before the Secretary of Internal Affairs, and the Attorney General, "for their action according to law, as the public interests may require, and reports the same in detail in its next succeeding report to the governor."⁴ The New Jersey Commission of 1907,⁵ likewise, can merely investigate and recommend as regards rates and the other important matters of railroad operation; it can issue orders only as regards the safety of tracks, roadbeds, tunnels, bridges and equipment, and the adequacy of transportation facilities and stations.

The last group of commissions forms a distinct type, not because of their rate-making power, but, because of the scope of their jurisdiction. They are "Public Utility Commissions," and include those of New York and Wisconsin.⁶ In addition to the usual common carriers, controlled by railroad commissions, the New York Public Service Commission has jurisdiction over all street railways, and over the manufacture, sale and distribution of gas and electricity for light, heat and power.⁷ The state is divided into two districts and in each there is a public utility commission consisting of five members. The Wisconsin Railroad Commission, was in 1907, given jurisdiction over an even wider range of public utilities. In addition to common carriers, street car and telegraph companies, tele-

⁴Pennsylvania, Act of May, 1907, No. 250, Sec. 17.

⁵New Jersey, Laws of 1907, Ch. 197.

⁶Wisconsin Railroad Commission (1905) obtained charge of public utilities in 1907, Sec. 1797, M 1 to 108.

⁷Laws of New York, Ch. 429.

phone companies and light, heat, water and power plants were placed within its jurisdiction.

In the four types of commissions here distinguished, there are certain *common powers and tendencies* clearly discernable. The powers of greatest importance are those with respect to *rates*. There is a decided tendency in the direction of granting to the commissions the authority to make rates, thirteen of the new commissions being armed with rate-making powers. The particular form of this rate-making power manifests a tendency toward rate revision as contrasted with the making of schedules, eight of the commissions having the former, and five the latter authority. The tendency, moreover, is toward the fixing of absolute rates, but two of the commissions, those of Montana and New York, being definitely limited to the making of maximum rates.⁸ Lastly, the tendency in rate-fixing, is to make it all inclusive. Twelve of the thirteen mandatory commission laws expressly include the power to fix joint rates and classifications.⁹

A second marked tendency is to give to the commissions wide *administrative powers over the service* of common carriers. Each of the fifteen recently created commissions is entrusted with the important duty of supervising the distribution of cars, and all but the Pennsylvania commission may issue mandatory orders to provide for reasonable distribution. Train service, stations and terminals, and, as is stated in the typical Wisconsin statute, "any regulation or practice, whatsoever, affecting the transportation of persons or property" are controlled by the commissions in the same way as are rates.

A third group of powers generally vested in the new commissions is the control¹⁰ of matters pertaining to *public safety*. They supervise the trackage and roadbed, grade crossings, signals, interlocking plants and all other safety devices, and issue orders, when necessary for the safety of the public or the railway employees.

The fourth tendency is to grant *financial powers* to the commissions. In New York, Wisconsin, Washington and Oregon, the commissions have the power to prescribe a system of uniform accounts, with the injunction in the New York statute, that it "shall conform as near as may be to those from time to time,

⁸Laws of Montana, 1907, Sec. 18; Laws of New York, Ch. 429.

⁹See Table I.

¹⁰Not mandatory in Pennsylvania.

established and prescribed by the Interstate Commerce Commission."¹¹ In New York, Oregon and Vermont, the commissions have control over the issue of stocks and bonds. All of them have the power to investigate the financial condition of all carriers within their jurisdiction.

The *judicial and executive powers* of the new commissions consist chiefly of the power¹² to try cases, hear and investigate complaints, summon and examine witnesses, issue subpoenas, administer oaths, require the production of books and papers, take depositions, "make findings, decisions or recommendations, determine their own procedure, and use a seal."

In the sixth place, there is a marked tendency to increase and concretely define the *extent of the commission's jurisdiction*. As was true of the older commissions, all the newer statutes grant to them the control over common carriers. But the recent¹³ statutes stipulate what is included under the term "common carrier." Fourteen of the fifteen laws definitely include express companies;¹⁴ thirteen especially stipulate private car companies and fast freight lines; and nine make special mention of industrial railroads. In twelve of the new commission laws, special mention is made of inter-urban street railways;¹⁵ and in Indiana, Nebraska, New York, Wisconsin and Pennsylvania, their jurisdiction extends to street railways¹⁶ operating within cities. The Pennsylvania Commission, furthermore, has jurisdiction over navigation companies, pipe lines, and telegraph and telephone companies.

In New York and Wisconsin, this tendency is carried to the extent of giving the commissions charge of most public utilities. The Georgia commission was, in 1907, reorganized so as to approach closely the scope of a public utilities commission, and similar attempts, in 1908, were made in Ohio and New Jersey. Shortly before the beginning of the five years here under consideration, this tendency was given its start in the "Corporation Commissions"^{16a} of Virginia and North Carolina.

¹¹Laws of New York (1907), Ch. 429, Sec. 52.

¹²Proceedings of Eighteenth Annual Convention of National Association of Railway Commissioners, p. 157.

¹³The New Jersey Statute, 1907, Ch. 187, is indefinite in this respect.

¹⁴See Table I.

¹⁵In all but Washington, Montana and New Jersey.

¹⁶Vermont statute extends to "all railroads within this state, whether operated by steam, electricity, or any other power."

^{16a}The Oklahoma constitution provides for a corporation commission, but it is not yet created.

Lastly, there are definite tendencies in *the organization* of the new commissions. The movement is away from the single commissioner to a commission of three or more. Fourteen of the commissions consist of three members, and New York's statute provides for two commissions, each consisting of five members. The movement is also toward a long tenure of office,¹⁷ eight of the statutes providing for a six-year term, two for five years, four prescribe a four-year term, and but one clings to a term of three years. Contrary to what the tendency was in 1902, ten of the new commissions are appointive and five elective.

In all, the new commission statutes there are provisions designed to make effective the work of the commissions. A penalty ranging from a maximum of not over \$500 for each offense in Washington and Montana, to one of from \$100 to \$10,000, for each offense assessable against the railroad and its agents and employees in Wisconsin, Ohio, Nevada and Oregon is provided for in case an order of the commission is violated. In Michigan the penalty is \$500 per week; in New York it is not over \$5,000 per day. Eleven of the commission statutes compel the carriers to publish their rates and file them with the commissions;¹⁸ eight expressly state that none but published rates are lawful; and eleven provide that no rate may be changed without a notice of from ten to thirty days. Twelve provide for stringent penalties against unjust discriminations and secret rebates. All the statutes creating "strong" commissions have provisions with reference to court appeals: Ten¹⁹ of them provide that in case of appeal, the orders of the commission shall be *prima facie* reasonable, and that the burden of proof shall be upon the carrier; all the laws except that of New York, provide for a notice and hearings before their orders are suspended by injunction; the Colorado law specifies that the commission's order may not be temporarily suspended for more than ninety days; in Montana and Nevada, the commission's orders remain in force during the court appeal; in Alabama, Oregon, Washington and Indiana, a bond must be posted by the carrier before an order may be suspended so as to test its validity in a court; and in New York, the carriers may appeal to the courts only on the constitutional grounds of confiscation of property without due process of law.

¹⁷See Table I.

¹⁸See Table I.

¹⁹Indiana, Washington, Wisconsin, Ohio, Michigan, Montana, Nebraska, Nevada, Oregon, Alabama.

(2) *Amendments to Older Commission Laws.*—In addition to the creation of new commissions, many changes were made in the powers, duties and organization of commissions which had been previously established. Contrary to the tendency toward the appointive commission, above noted, two of the older commissions, those of Kansas²⁰ and Georgia, were changed from the appointive to the elective type, and in the case of the former, the term of office was reduced from three to two years. In other respects, however, the amendments have been largely in conformity with established movements.

The term of office in Iowa²¹ was increased from three to four years, the salaries of the commissioners in Massachusetts²² and Kentucky were advanced, and the Georgia commission was enlarged to a membership of five. In five states the scope²³ of the commissions was increased. Steamships were brought within the Massachusetts statute; express companies within that of Iowa; sleeping car companies within that of Arkansas; electric railways, express and sleeping car companies were brought within the jurisdiction of the Kansas commission, and pipe lines within that of the Louisiana commission.

The Georgia commission was changed into a public utilities commission, when it was given jurisdiction over street railways, telegraph and telephone companies operating beyond the limits of a city, town or country, over public docks and wharves, terminals and terminal stations, public gas light and electric light and power companies.

The Texas, Maine and Kansas commissions were given control over sidetracks,²⁴ and spurs; those of Virginia and North Carolina, over demurrage and car service;²⁵ Georgia²⁶ over the forwarding of freight; Missouri,²⁷ over train service; and North Carolina, South Carolina and Kansas over stations.²⁸ Many commissions were

²⁰Kansas, 1903, C. 391; Georgia, 1906, p. 100.

²¹Iowa, 1906, C. 38.

²²Massachusetts, 1906, C. 417, from \$5,000 to \$6,000; Kentucky, 1906, C. 85, from \$2,000 to \$3,000 and \$3,600.

²³Massachusetts, 1903, C. 173; Iowa, 1907; Arkansas, 1907, Act 193; Kansas, 1907; Louisiana, 1906, No. 36.

²⁴Texas, 1903, C. 99; Maine, 1907; Kansas, 1905, C. 351.

²⁵Virginia, 1903, C. 260; North Carolina, 1903, C. 342.

²⁶Georgia, 1906, p. 120.

²⁷Missouri, 1905, p. 104, 108.

²⁸North Carolina, 1903, C. 126; South Carolina, 1906, C. 8; Kansas, 1907, C. 267.

given control over public safety devices,²⁹ and in four³⁰ states laws were passed obliging carriers to report all accidents to the commissions. The Alabama and Missouri commissions³¹ were, in 1903, changed from the "weak" to the "strong" type. The Iowa and Arkansas commissions were given the power to fix joint rates. The Virginia³² commission was, in 1906, burdened with the duty of making a schedule of passenger fares; and in 1907 the South Dakota commission³³ was instructed to determine the value of the intrastate railroads with a view to making a rate schedule.

Finally, three of the older commissions were given greater financial powers. The New Hampshire³⁴ commission was given the same control over the stocks of a holding company as it previously had over railroad stock issues; the Georgia³⁵ commission was given control over the issue of stocks and bonds; and the Minnesota³⁶ commission was given the highly important power of fixing a uniform system of accounts.

(3) *Freight Rate and Passenger Fare Acts.*—There is a well-defined difference in railroad legislation, between regulation through a commission and regulation by statute. Many statutes, enacted during the last five years were intended primarily as aids to the commissions, and in statutes of this type there is nothing anomalous. As is indicated in the accompanying table, seventeen states enacted laws prohibiting unjust discriminations and rebates. Those passed since the enactment of the Elkin's Law of 1903, and the Interstate Commerce Act of 1906, are modeled after the Federal statutes, and usually provide that the penalty is assessable with equal force against the shipper who accepts a rebate and the carrier who pays it. Ten states, likewise, passed statutes, doubtless based upon the federal acts, providing that only the published rates are lawful. A conviction of rebating in these states, therefore, does not necessitate the comparison of rates paid by competing shippers, but merely evidence that the actual rate paid was different from the published

²⁹New Hampshire, 1903, C. 88; Minnesota, 1905, C. 176, 1907; Massachusetts, 1906, C. 417; Illinois, 1905, C. 350.

³⁰South Carolina, C. 419; Minnesota, 1905, C. 122; Iowa, 1905, C. 131; North Dakota, 1907, C. 205.

³¹Alabama, 1903, p. 95; Missouri, 1903, p. 132.

³²Virginia, 1906, C. 256.

³³South Dakota, 1907, C. 213.

³⁴New Hampshire, 1903, C. 55.

³⁵Georgia, 1907, No. 223.

³⁶Minnesota, 1907.

rate. Similarly, provision was made in a dozen states that no rate may be changed without notice of a specified number of days—ten days in eight states and thirty days in four.

A similar group of statutes consists of the so-called anti-pass laws. Fourteen states, Alabama, Iowa, Kansas, Minnesota, Michigan, Nebraska, Oregon, Texas, Vermont, Ohio, Indiana, South Dakota, Oklahoma and New York, enacted provisions much like those in the Hepburn Act, prohibiting the granting of all passes, except to railway officials, agents, employees and their families and certain other persons specifically excepted. Six states, Georgia, Wisconsin, New Hampshire, South Carolina, Nevada and West Virginia, prohibited the giving of passes to certain public officials, or members of the judiciary, in order to eliminate bribery, and Texas and Iowa enacted similar anti-pass provisions before the adoption of the more sweeping statutes. New Jersey, in 1907, attempted to accomplish this same end by compelling the railways to grant free transportation to a large number of public officials, and a similar provision, embodied in a constitutional amendment, was submitted to the voters of Missouri, but was rejected.

Rate statutes of this type are but complementary to the control of rates through a commission. In many states, however, the legislatures fixed maximum freight rates and passenger fares by statute, and thereby violated the saner principle of rate control through expert commissions, which they apparently accepted when they vested such commissions with rate-making powers. It is a curious fact that, side by side with the creation of fifteen new commissions and the granting of increased powers to many of the older commissioners, twenty-two states, during the last five years, enacted statutes fixing the maximum *passenger fare* which may be charged between points within their boundaries.²⁶ Eleven²⁷ state legislatures fixed the arbitrary maximum fare of two cents per mile; the statutory maximum in Iowa and Michigan is graded from two to three cents; that of Virginia, from two to three and one-half cents; that of Alabama and North Dakota is fixed at two and one-half cents; North Carolina, at two and one-quarter; and that of Kansas, Montana, South Carolina and Washington, at three cents per mile.

²⁶See Table II.

²⁷The Missouri and Mississippi two-cent fare not applicable to very small roads.

Before the Wisconsin two-cent fare law was enacted, the railway commission made a careful examination of the passenger fares of the state, and declared itself in favor of a maximum no lower than two and one-half cents per mile, but the legislature disregarded the expert opinion of the commission and fixed an arbitrary maximum at two cents for all railways with receipts of \$3,500 or over per mile. In this the railways of Wisconsin acquiesced, but in other states, notably Pennsylvania, Alabama, Mississippi, Nebraska and North Carolina, the railways appealed to the courts.

The acts of Pennsylvania and North Carolina have already been finally declared to be unconstitutional. Whether or not the remaining maximum fare laws will likewise be overthrown, the wisdom of fixing fares by a sweeping and inflexible statute instead of through an expert commission is at least questionable.

In addition to the statutes fixing maximum fares, nine states passed laws relative to *passenger mileage books*.³⁸ The usual provisions are that mileage books of specified amounts must be sold; that they are to be transferable; and that the rate is not to exceed a specified maximum per mile.

The number of statutes³⁹ enacted during the last five years, fixing maximum *freight rates*, is insignificant in comparison with those fixing maximum fares. Nine states, however, adopted such laws. The Alabama rate law of 1907, after dividing railways into four classes, divides the bulk of intra-state traffic into twenty-two classes. It then prescribes a maximum rate for each class, above which neither the railway commission nor the railway may fix an actual rate. Separate maximum schedules are, also, prescribed for cottonseed oil, oil cake, cottonseed, ashes, and fertilizers. Minnesota in the same year enacted the well known freight rate act, recently declared unconstitutional by the United States Supreme Court.^{39a} Many of the chief commodities which had previously paid commodity rates were by statute placed within the Minnesota classification, and each class was given a maximum rate. Practically all agricultural products, lumber and live stock, the highly important factors of Minnesota freight, were in this way divided into statutory classes and deprived of commodity rates.

In Nevada the identical rate law which creates the rate-making

³⁸See Table II.

³⁹See Table II.

^{39a}See Table II.

commission fixes a complete maximum schedule of rates for both classified and unclassified traffic, and adopts the western classification. A Nebraska statute of 1907, prescribes maximum rates for live stock, potatoes, grain and grain products, fruit, coal, lumber and building material in carload lots. A Kansas rate law of 1905 prescribed schedules for oil, gasoline, fuel oil and petroleum, and two years later similar schedules were fixed for cereals and cereal products. In 1905 the Missouri legislature fixed maximum rates for six classes of freight in car-load lots, as well as for stone, crushed rock, sand and brick in car-load lots; and in 1907, it raised all these maximum rates and prescribed maximum rates and car-load weights for fruit. Similar, though less comprehensive, rate statutes were enacted in North Carolina, South Carolina, Maryland and North Dakota.

(4) *Statutes Regulating the Service of Common Carriers.*—The car shortage during the years 1905, 1906 and part of 1907, and the frequent complaint that cars were not fairly distributed resulted in an unusually large number of statutes designed to regulate *car service*. Twenty-five states enacted car service laws, and in twenty of them,—Alabama, Colorado, Indiana, Kansas, Minnesota, Missouri, Arkansas, Georgia, Louisiana, Mississippi, North Dakota, South Carolina, Virginia, Oklahoma, Oregon, North Carolina, South Dakota, Texas, Vermont and Washington,—they provided for reciprocal demurrage. As is indicated in the following table (Table III) the provisions of the reciprocal demurrage laws show little uniformity other than that the shipper is usually obliged to unload or load his cars within a period of forty-eight or seventy-two hours or pay a demurrage of from one to five dollars per car for each day of delay. On the side of the carrier the number of cars, the time limit, the demurrage charges, the number of miles per day which the cars must move and the time allowed for delivery are usually specified, but without uniformity in the different states. The demurrage in the more recent statutes seldom exceeds five dollars per car per day. The Texas law, which provided for a penalty of twenty-five dollars if ten cars were not furnished within six days or fifty in ten days, was declared unconstitutional,⁴⁰ as a burden upon interstate commerce and beyond the police power of the state.

The remainder of the car service statutes usually provide that

⁴⁰*Houston and Texas Central Railway vs. Mayes*, 2014, S. 821.

there shall be a "reasonable and fair distribution" of cars between applicants. As was previously noted, moreover, in the fifteen states creating new commissions, as well as in Virginia and North Carolina, the supervision of car distribution was placed in the hands of the railway commissions.

A second field of service regulation is that of *stations and terminals*. Twenty-seven separate states enacted statutes, the usual provision of which was that adequate stations must be built when population or traffic has attained specified amounts, and that they must be suited to the convenience of the public. It is frequently stipulated that passenger stations must be open at specified times, that they must have public telephone service, must be adequately heated and lighted, and have adequate toilet facilities.

Twenty-three states enacted laws regulating *train service and connections*. These statutes generally stipulate that through connections shall be provided and that a reasonable number of trains shall be available at all stations. In Mississippi, Texas, North Dakota, Wisconsin, Minnesota, South Carolina, Montana and Indiana it was provided that railways shall furnish bulletins announcing the arrival and departure of passenger trains.

In fifteen states, during the last five years, the *live-stock service* was the object of legislation. The usual provisions in the laws are that cattle shall be unloaded for food and rest at the end of a given number of hours, that stock cars shall be moved at the rate of say eighteen miles per hour⁴¹ on the main line and twelve miles per hour on branch lines, and that free transportation and caboose facilities shall be provided for the attendants of live stock. The Alabama law stipulates that, in the distribution of cars, live stock shall receive preference; the Montana law declares it to be a misdemeanor for a carrier to permit cattle to be shipped without inspection; in several states new statutes were enacted relative to fences⁴² and cattle guards; and in South Carolina carriers are required to furnish telegraphic information as to the movement of stock cars.

Twenty-one states regulated the construction and use of *industrial tracks* and spurs. In nine of the states creating new commissions, as well as in Maine, Texas and Kansas, control over such

⁴¹Nebraska, 1905, C. 107.

⁴²Arizona, Montana, Florida, Oklahoma, Utah, Washington, South Dakota.

tracks is vested in the commissions; a California law of 1905 required the consent of the local legislative authorities before private tracks could be constructed; and in various states⁴³ carriers were obliged to construct branch lines to a distance of from one-quarter to one-half mile from the main line unless lack of necessity could be demonstrated to the railway commission.

Lastly, twenty-one states enacted statutes concerning the service of *express companies*. In sixteen⁴⁴ of these the express service was by statute placed within the jurisdiction of their railroad commissions. The Arkansas and Florida legislatures enacted laws regulating the payment of damages by express companies; and a Nebraska statute of 1907 fixed the maximum express rates at seventy-five per cent of what they were on January first of that year.

(5) *Corporate Affairs*.—As many as thirty-six states and territories enacted statutes regulating the general corporate affairs of common carriers. Corporate powers, however, were so well defined by older laws, that few of those passed during the last five years are of special importance; but few common tendencies, moreover, are discernible. Various statutes⁴⁵ provide that electricity may be substituted for steam without obtaining a new charter; others stipulate how securities may be issued, those of Arizona, Mississippi, New York and New Hampshire being aimed directly at the issue of watered stocks and bonds. The Wisconsin statute of 1907 prohibits the issue of stock below par or of bonds at less than seventy-five per cent of their par value, and provides that dividends may be paid only on shares fully paid for and only out of net profits. Still others of these corporate statutes permit the purchase of steamboats and barges by railways.⁴⁶ The majority, however, make minor changes in the laws defining the corporate powers of common carriers.

(6) *Public Safety*.—The rapid increase in railway accidents during the last half decade was a matter of special concern to the state legislatures, and as a result statutes designed to promote

⁴³Kansas, 1905, C. 350; South Carolina, 1905, C. 480; Mississippi, 1905, C. 386; Indiana, 1907; Nebraska, 1907, C. 89.

⁴⁴New Hampshire, Massachusetts, Vermont, Alabama, Pennsylvania, Oregon, New York, Nevada, Nebraska, Montana, Michigan, Colorado, Ohio, Mississippi, Washington and Indiana.

⁴⁵California, 1905, C. 423; Nebraska, 1905, C. 40; Maryland, 1906, C. 717; Tennessee, 1903, C. 115; New Hampshire, 1903, C. 102.

⁴⁶Michigan, 1905, C. 156; Massachusetts, 1904, C. 169.

public safety were enacted in thirty-five states and territories. Of special frequency were the laws regulating the location and operation of *grade crossings*, such statutes being enacted in twenty-six states.⁴⁷ Some place the control of grade crossings directly in the hands of the commission; some provide for specified safety devices at grade crossings; some limit the maximum percentage of the grade; and others limit the speed of the trains. In various states⁴⁸ laws were enacted dealing directly with accidents by requiring that all accidents be immediately reported to the state commission, whose duty it is to investigate whenever necessary.

In seventeen states⁴⁹ and territories statutes designed largely to protect the public took the novel form of prescribing a limit to the *number of hours* of continuous labor permissible on the part of trainmen and telegraphers. The most frequent limit is sixteen hours; but in Texas, Connecticut, Missouri, New York, Wisconsin and West Virginia it is fixed at eight hours for telegraphers; and in Texas at fourteen hours for trainmen. The basis upon which these laws rest is the belief that if men who are directly concerned with the movement of trains work continuously for more than say sixteen hours they are liable unknowingly to make errors which may result in vital danger to the traveling public.

Aside from these general groups of public safety statutes, many miscellaneous provisions were enacted. Various states⁵⁰ provided for the most extreme penalties against attempts to derail trains. Some⁵¹ enacted laws requiring power brakes for locomotives and a given percentage of the cars in a train, usually seventy-five per cent; others⁵² required the adoption of automatic couplers and grab irons. Various states⁵³ fixed heavy penalties against tampering with switches and signals; some⁵⁴ prohibited the

⁴⁷Vermont, Montana, North Dakota, Kansas, Indiana, Florida, New Hampshire, Ohio, Maryland, New Jersey, Michigan, Missouri, California, Massachusetts, Pennsylvania, Maine, Arkansas, New York, Illinois, Minnesota, Oregon, Alabama, West Virginia, Oklahoma, Nevada and Wisconsin.

⁴⁸South Carolina, Minnesota, Colorado, Michigan, Montana, Nevada, New York, Pennsylvania, Massachusetts, New Hampshire and Illinois.

⁴⁹Kansas, Missouri, Maryland, Arkansas, Iowa, North Dakota, Wisconsin, Indiana, Minnesota, South Dakota, Texas, Virginia, Connecticut, Montana, New York, North Carolina and West Virginia.

⁵⁰California, Delaware, Georgia, New Mexico, Oregon, Montana, North Carolina, Rhode Island, South Carolina and Vermont.

⁵¹Indiana, Ohio, Illinois and Missouri.

⁵²Indiana, Ohio, Illinois, Missouri, Minnesota and Michigan.

⁵³Virginia, Colorado and Maine.

⁵⁴California, North Carolina and Vermont.

employment of men addicted to the use of liquor; others made special provision that a full train crew²² is at all times to be in charge of a train. A Nebraska statute fixes the minimum age of a night telegraph operator at twenty-one years, and a similar law in Wisconsin provides that a telegrapher must be at least eighteen years of age and have had eighteen months of instruction under an experienced operator. An Alabama law stipulates that employees engaged in train movements must be able to distinguish objects, colors and sounds. The remaining statutes cited in Table II hardly call for special mention; they further illustrate the great variety of provisions enacted by the various state legislatures to protect the public and employees from bodily injury.

General Survey of the Period

The last five years as an aggregate have been a period of almost frenzied railway legislation, and it is not surprising that both wise and unwise statutes were, in the heat of public agitation, enacted by the state legislatures. The sanest legislation and that which is best withstanding the present reaction in public and court opinion, is doubtless that which placed the supervision of railroads into the hands of railroad commissions as distinct from direct control by sweeping and inflexible statutes. Whatever general tendencies have been developed in this commission legislation has likewise been sane and conservative.

The marked tendency to confer upon the commissions the power to fix rates, joint rates and classifications is but a recognition of the fact that in few states other than Massachusetts have commissions with merely advisory powers been able to cope with the rate situation. There is nothing inherently wrong in the rate-making power if it is of the conservative type, and as was previously noted eight of the thirteen newly created mandatory commissions are instructed to revise individual rates upon complaint and after hearings have been held, as contrasted with the drastic power of making rate schedules.

The tendency to vest the commissions with wide administrative powers over the service of railways cannot but lead to better results than the rigid control of service by statute. The promotion of public safety through commissions; their supervision over stock and bond issues; and their power to investigate the finances of railways

²²Indiana, Mississippi, Texas, Arkansas, Kansas and South Dakota.

leads to a far more conservative and elastic control than could be secured by rigid, prohibitory statutes. Even the power to promulgate uniform accounts is less drastic than it appears, for almost invariably the commission co-operates with the railway accountants. The judicial power to call witnesses, to have access to books and papers, and to take sworn testimony is a vital auxiliary to state railroad regulation, for in no other way can either a commission or a court arrive at an intelligent conclusion in the issue of an order.

The tendency to increase the membership from a single commissioner to a commission of three or of ten, as in New York and five in Georgia; the increased salaries of the commissioners; longer tenure of office; the more frequent practice of having them appointed rather than elected as political office holders; and the provision for the hiring of experts,—all lead to a better personnel in the commissions and a better understanding of the delicate matters which come before them.

A final tendency in commission legislation is the establishment of public utilities commissions. If railways are to be subjected to state control because of their quasi-public nature, then there is little reason why they should be singled out from other public utilities. As was previously indicated, there is an almost universal movement to extend the scope of the commission to express, sleeping car and private car companies, industrial railways, terminals and inter-urban street railways. In some it is extended to include telegraph and telephone companies, navigation companies and street railways within cities and towns. In others it is extended to nearly all public utilities. North Carolina and Virginia have "Corporation Commissions," New York and Wisconsin have Public Utilities Commissions, and the Georgia Railroad Commission has jurisdiction over a large number of public service corporations.

But the legislation of the last five years has also its anomalies. It would seem that when a state entrusts the regulation of rates, fares and service to its commission, the policy of regulating these matters directly by statute would decline. But the mere bulk of statutes above enumerated is striking evidence that statutory control has increased enormously. Not all such laws are contradictory to the principle of mandatory commissions. As was previously explained, many of the statutory provisions were enacted so as to make the work of the commissions more effective, neither is there any-

thing unusual in many of the laws concerning public safety, the corporate affairs of the railroads and other matters which are much alike in all parts of a state, and may be regulated by a blanket statute without special hardship to particular railways.

It is the statutory fixing of rates and fares that has caused the greatest complaint, and it is these that now bear the brunt of adverse court decisions. It is notable that as long ago as 1890 there were twenty-two maximum rates and fares statutes, and that during the next twelve years⁵⁶ the number was increased by but four. During the last five years, however, twenty-two states enacted maximum fare laws and nine states established maximum rate schedules by statute. With few exceptions these states also have commissions to whom they have given the power to make rates and fares.

Only slightly less inexplicable is the statutory control of the railway service. In numerous instances, the self-same states that vested their commissions with the power to supervise the service of the carriers, enacted reciprocal demurrage laws to solve the car service problem, and passed rigid statutes as to the location and construction of terminals, the running of trains, the making of connections and the building of private tracks and spurs. There were grounds for state control of the railway service, but it is questionable whether it should be in the form of statutes enacted by legislatures, or by orders issued by expert commissions.

It is not surprising that of the great number of railway statutes recently enacted some should be contested by the carriers, and this, together with their depleted earnings as a result of the industrial depression, has caused a sudden halt in the activity of the state legislatures. It is of special significance that thus far the successful attack of the railways has been against the regulative statutes and not against the commissions. In Washington, alone, has the court denied to the commission the power to fix maximum rates, because of a special provision in the state constitution reserving that power to the legislature, and this decision is not final, for it has been appealed to the Supreme Court of the United States. On the other hand, the Indiana commission law has been declared to be constitutional; the power of the South Dakota⁵⁷ railway commission over express companies, and of the North Carolina⁵⁸ corporation com-

⁵⁶I. C. C., *Railways in the United States in 1902*, Part IV, p. 28.

⁵⁷*Platt vs. Le Cocq*, 150, 391.

⁵⁸*A. C. L. R. Co. vs. N. C. Corp. Com.*, 27 S. C. Rep. 285.

mission to require through connections has been recognized in court.

Rate orders of various commissions have been temporarily enjoined and are now in court for final decision,—as in Kansas, Missouri, Virginia, Alabama and South Dakota, and a western railway has prepared to test the validity of the Nebraska commission, but there is as yet no indication that the courts will reverse the decisions which they made at the time of the Granger commissions.

It is in the field of direct statutory regulation that there are numerous provisions unable to weather a constitutional test. On March 23, 1908, the United States Supreme Court, in a double case, declared unconstitutional the freight rate act of Minnesota and the passenger fare act of North Carolina because the penalty was so severe as to prevent a carrier from testing their validity, and because the court regarded their enforcement as confiscatory. The two great principles that the enjoining of a state officer is not suing the state, and that a federal court may test the validity of a state rate act were established.

In Pennsylvania the State Supreme Court declared the two-cent fare act unconstitutional on grounds of confiscation; and in Alabama the Federal Circuit Court⁵⁹ on the same grounds enjoined the two and a quarter cent fare law and the freight rate act fixing maximum rates on 110 commodities. Preparation has been made to attack the two-cent fare laws of Missouri, Illinois and Nebraska and the freight rate act of Missouri, upon the ground that the penalties they impose come within the federal ruling made against the Minnesota and North Carolina rate acts.

Various statutes other than those fixing rates and fares have, likewise, been declared unconstitutional. The Alabama, Arkansas and Missouri statutes which prohibited foreign carriers from appealing cases to a federal court upon penalty of forfeiting their right to operate within the state were overthrown as infringing upon the rights of persons to sue in federal courts, guaranteed both by the state and federal constitution, and upon the grounds that the jurisdiction of federal courts is fixed by the federal constitution and may not be limited by legislatures.⁶⁰ The Supreme Court of Missouri

⁵⁹*Seaboard Air Line Railway Co. et al. vs. R. R. Com. of Alabama et al.*, 155 Fed. Rep. 792.

⁶⁰*Chl., R. I. & P. Ry. Co. vs. Ludwig*, 156 Fed. 152; *Seaboard Air Line Ry. Co. vs. R. R. Com. of Alabama*, 155 Fed. 792.

has declared unconstitutional the law requiring free transportation for shippers of live stock, as discriminating against other shippers and in violation of the fourteenth amendment. The reciprocal demurrage law of Texas was overthrown and that of Minnesota is now being tested by the Great Northern Railroad. The laws limiting the hours of telegraphers and trainmen have been upheld by the Supreme Court of Montana and a state circuit court in Wisconsin, but have not as yet been finally ruled upon by a federal court.

REGULATION OF FOREIGN COMMERCE BY THE INTER-STATE COMMERCE COMMISSION

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It is the purpose of this paper to discuss the relation of the Interstate Commerce Commission to through export and import traffic. To this end, the subject matter is grouped under four headings: the integration of ocean and inland commerce; the present authority of the Interstate Commerce Commission; the consequences of incomplete jurisdiction; and suggested legislation.

The organization of through transportation systems has changed the entire aspect of commerce within the last three decades; consequently an exposition of the integration of ocean and inland commerce may well precede the discussion of needed legislation.

I

Integration of Ocean and Inland Commerce

The most striking feature of the present organization of commerce is the through character of business and interrelation of the trunk line railroads of the United States with the various trans-oceanic carriers. The world's commerce is no longer carried on by a large number of dissociated, warring companies. Competition has given way to cooperation and merger. The old system of frequent transshipment has been replaced by through routes, through rates and through arrangements which make possible the remarkable celerity of present business transactions. The trunk line railroads and the trans-oceanic steamship companies have so splendidly organized their joint services that the shipper may now send his merchandise from an inland city of one country to a remote point in a foreign land, and have no concern as to its safety; for the contract covering the entire journey is or may be closed the moment it is given over to the initial carrier.

To-day, a miller in Minneapolis exporting flour, can secure his through bill of lading from the place of manufacture to ultimate

destination in Europe, insure the flour under a through certificate of insurance against all risks of transportation, railroad or marine, from mill to the foreign consignee, sell his bill of exchange drawn in the currency of the country to which the flour is destined, and literally do all the business connected with the transaction upon his own doorstep within the short space of time elapsing between the milling and the final shipment of the flour. On the day the flour is shipped from the mill the manufacturer is substantially free from any further responsibility or liability. This system applies not only to export flour but to the export trade in general. As a practical illustration of this, a miller in Minneapolis may buy his wheat on Monday, grind it into flour on Tuesday, sell the flour abroad on Wednesday, very readily ship it on Thursday, and one hour after the flour is loaded into railroad cars at the mill he can obtain his through export bill of lading from the mill door in the United States to the warehouse of the buyers at foreign ports of destination.

Through Conditions.—Simultaneously with the issuing of the through bill of lading, a certificate of insurance is issued by underwriters, which explicitly undertakes to cover the flour throughout the whole course of transportation. The title to the property, as well as to all the rights and responsibilities of the underwriters conveyed by the certificates of insurance, passes from one bank to another by simple successive endorsements on the bill of exchange, and this only because a through bill of lading has been issued therefor, which is the recognized inviolable title to the merchandise. The western banker readily purchases of the miller his exchange on the foreign buyer, for such documents are the most acceptable form in which a remittance can be made to foreign correspondents, but the banker would not purchase this kind of exchange at all unless a through bill of lading was attached thereto. These shipping documents the banker then sends to his correspondent in, say, Copenhagen, where they are retained by the local Danish banker to be surrendered when the flour is ultimately delivered to the consignee. In the meantime, from the day the flour was originally shipped until it is finally delivered to the consignee, the various manipulations of the property are conducted by the respective land and water transportation companies, without the intervention and indeed, substantially without the knowledge of the shipper or receiver of the cargo,

the transporters having assumed by the through agreement to relieve the seller, bankers and buyer of all these intermediate factors and conditions.

Eastbound Shipments. Western exporters constantly make through export contracts for the shipment of products on through bills of lading, with the agents of the various railroads located through the West and South. The steamship companies themselves often do not know the names of the shippers or the precise locality from which the merchandise is forwarded, until the tissue copies (duplicates) of the through bills of lading as signed by the railroad company's officers are transmitted to the steamship company's office. Such a bill of lading contains a large number of stipulations many of which are intended to frighten the unsophisticated. Those made by the inland carrier are first set forth. Then follow the conditions submitted by the ocean carrier. The merchandise to be transported is described and note made of the various marks. The inland rate and the ocean rate are shown separately. Where the agent of the railroad receives payment for the through transportation he stamps on the bill "Freight Prepaid to Destination." This is a *through* contract over a *through* route at a *through* rate.

Through Freight Prepaid. It constantly happens that the inland and ocean freight are both prepaid. This presupposes that the miller or provision packer has sold his goods at a price delivered at final destination abroad. The draft drawn and the amount of insurance is correspondingly increased as much as the inland freight and ocean freight together.

Westbound Shipments. A similar statement might be made with respect to westbound traffic originating in Europe and destined to the interior of the United States. Frequently merchandise shipped as above, on through bills of lading, from, say, Hamburg to an inland place of destination in the United States, say Chicago, has the entire ocean and inland freight prepaid. A foreign seller, like an American exporter, makes a price delivered at final destination, including the payment of entire through freight. In other cases, where merchandise is shipped from abroad at a through rate of freight on a through bill of lading, the connecting trunk line railroad collects from the party to whom it is ultimately delivered in the interior of the United States the entire through charge for transportation, and reimburses the steamship company for the ocean car-

riage. Through westbound merchandise forwarded in bond from the seaboard, is retained in the custody of the United State Government until its eventual arrival at interior port of destination. It is then surrendered to the owner of the property only upon his delivering to the collector of customs the original through bill of lading issued by the steamship company at the port of origin. Were it not for the through bill of lading, goods would be retained at the seacoast port of entry until customs duties were paid, thus involving great delay and expense.

Insurance. Contracts of insurance are daily made covering the value of the goods and assuring the owner their safe transportation (inland and marine), and their ultimate delivery. This system of through insurance is probably the most comprehensive system of insurance extant to-day, covering, as it does, all character of risks and damages on merchandise over the inland carriers, land and water, during transit, in the warehouse, or on shipboard or intermediary lighters,—the system providing for the ultimate subrogation of the interests of the owners of the property against any of the respective carriers. This is another instance where all the parties concerned in a through shipment endeavor to tie the transaction together in its entirety, so that there shall be no intermediate steps where the one insurance or responsibility has ceased before the other attaches.

Through Bill of Lading. Prior to 1880, all merchandise intended for export was forwarded by the railroads on domestic bills of lading to the seaboard and from there reforwarded on an ocean bill of lading. Often thirty or forty days elapsed before the railroad had delivered the merchandise for transshipment. An additional sixty and sometimes ninety days was consumed before the shipper was again in possession of his capital. The export bill of lading now in use was prepared by the Transatlantic Freight Conference in 1899, and approved and adopted by the Trunk Line Association and affiliated railroads April 1, 1901. It is the outcome of many years of negotiations between the trunk line railroads and the ocean carriers to formulate and promulgate an instrument which would be of acceptable and conclusive character to financiers and underwriters, the necessary intermediaries in connection with all the export or import traffic of the United States. The object was to issue a negotiable instrument which would fairly and

plainly designate the responsibilities assumed and the exceptions provided for. Originally through bills of lading were issued at only a few of the large designated commercial centers; now they are obtainable from hundreds of railroad officials throughout the United States and in all important European centers. The railroad companies now prepare and issue these through bills of lading on which eastbound or export traffic moves, for themselves and for the steamship companies. On the other hand the steamship companies issue for themselves and the trunk line railroads through bills of lading on which westbound or import traffic moves to the interior centers of the United States.

Immigrants. Immigrants upon reaching the European port of departure book to their final destination in the interior of the United States, and are manifested through via American trunk line railroads. The through passenger ticket is similar to the through bill of lading. In one case the through freight is provided for, and in the other the through fare, and in each case there is an arrangement between the ocean and inland carrier for through transportation. There is a large and constantly increasing traffic in through emigrants from interior points in the United States to European countries. No fewer than three transatlantic steamship conferences, with headquarters in New York, with their thousands of exclusive agents are engaged in conducting the immigrant and emigrant business under through systems of tickets, and of orders upon steamship companies and railroads.

Through Rates. As already noted, it frequently happens that the steamship company is without knowledge as to who engages certain freight, where it originates, or as to any other circumstance relating to it prior to the time of arrival alongside the steamer. In such instances the railroad company is serving as the agent of the steamship company. The Transcontinental Railway Freight Bureau has on file with the Interstate Commerce Commission (I. C. C. 847) a schedule of what are called inward-bound European through rates. These through rates apply via those steamship lines operating from ports of clearance in conjunction with no fewer than fourteen American railroads (among others the Illinois Central, Sante Fé System, and the Union Pacific), from thirty-six European ports (among others, Hamburg, Copenhagen, Liverpool) to such points as San Francisco, Los Angeles, and Portland. It is specially

stipulated that through rates will be protected only when the merchandise is routed by the general European agents of the American railways or authorized under the system of through bills of lading and through rates now in general use.

The import committee of the Congress of American Railways have arranged inland commodity rates on certain merchandise which apply only to through import traffic. The various steamship companies acting in concert issue on these same commodities special ocean rates of freight which they will quote or permit to be quoted only on shipments moving directly to the interior of the United States. The inland and ocean carriers have thus made special provision for through foreign traffic both as to ocean and inland movement. In arriving at the rates referred to, the American railways take into consideration the cost of the merchandise when landed at the American seaboard as compared with the appropriate selling price at ultimate destination. Thus the import inland rate on certain designated commodities bears a definite relation to the charge for the ocean transportation. It is a proportion of a through rate. Perhaps no better illustration of the complete integration of inland and ocean commerce can be offered than by referring to the Hamburg-American Company's freight service between the North Atlantic ports of the United States and the countries about the Baltic. Minneapolis and Duluth furnish great quantities of the flour, and Omaha and Kansas City great quantities of the provisions which enter into this trade. The merchandise from these various sources is moved first to Chicago, and from there is carried eastward by the trunk line railroads and lake vessels to be again distributed through various channels to the six important United States North Atlantic ports. Immediately after arrival at these ports the merchandise is transhipped on board a vessel of one of the lines serving the Baltic. On arriving at Hamburg, Bremen, Hull, or Copenhagen, depending on whether the Hamburg-American Packet Company, the North German Lloyd, the Wilson (Hull) Line, or the Scandinavian-American Line has been the ocean vehicle of transportation, a further transshipment takes place on board lighters and coasters belonging usually to the same companies as the transoceanic lines and by these latter vessels delivery at final destination is made to consignees in 150 or more Norwegian, Swedish and Finnish ports. Only the vehicle of transportation is changed. This change in vehicle very

likely occurs many times within the United States; it may also take place after the American seaboard is passed. In any event there is a through route, a through rate, and a through bill of lading. The transportation is a through transportation. It is an inseparable entirety.

From the foregoing, it is clear that the trunk line railroads and their connections, in conjunction with the ocean steamship companies, have assumed a through contract to deliver the merchandise (dangers and accidents of the sea excepted) to the ultimate port of destination, and that until so delivered the property is covered by inland or marine insurance, or by liability of the common carrier against substantially all risks of land and water. Thus the shipper is made absolutely secure. Given perfect freedom of ocean transportation in addition to through conditions and perfection in transportation is reached.

Unfortunately, such conditions do not exist. But is not the sea a highway free to all? Both the Supreme Court of the United States and the Interstate Commerce Commission¹ have answered this query in the affirmative. Said Mr. Justice Bradley in *Railroad Company vs. Maryland*, 21 Wall. 456:

Page 470, "Maritime transportation requires no artificial roadway. Nature has prepared to hand that portion of the instrumentality employed. The navigable waters of the earth are recognized public highways of trade and intercourse. No franchise is needed to enable the navigator to use them."

This opinion was handed down in 1874, before any of the modern conditions which affect through trade began to make themselves felt. The Atlantic cable had barely been put into successful operation, and the through bill of lading was substantially unknown. The words of the learned judge are, however, as true to-day as when he first gave them utterance. No franchise is needed to sail the seas, nor will such a franchise ever be required. In the face of this assertion, it may seem paradoxical, but it is nevertheless undeniable, that on no portion of the earth's surface are the means of transportation so completely controlled and monopolized as they are on the high seas.

No better example can be cited than the conditions under which

¹*Cosmopolitan Shipping Co. vs. Hamburg-American Packet Co.*, 13 I. C. C. Rep. 266.

is conducted the commerce of the United States with northern Europe. This great commerce is carried on under agreements among certain steamship aggregations. The English, French, and American transatlantic steamship interests, fearing destructive competition on the part of the German interests, agreed, in 1902, not to transport for a period of twenty years either passengers or merchandise by direct steamers to or from northern European continental ports. This agreement leaves the control of the entire trade of northern continental Europe in the hands of the Hamburg-American Packet Company and its associates, which together constitute the Baltic pool.² Not only have certain steamship interests divided the field, but they have in addition apportioned traffic. This applies particularly to the Baltic trade of the United States.

The sea itself is still a highway free to all, but when one carrier controls 100 per cent of the westbound and 97 per cent of the eastbound traffic of the six great North Atlantic ports of the United States with the most important port of continental Europe (Hamburg), as was the case in 1906, there is a monopoly in transportation.³

The export and import trade of the United States with Germany in 1906 was \$389,000,000. During 1907 this trade increased to \$418,000,000. The figures for the calendar year 1907 (\$435,000,000) indicate that the total for the fiscal year 1908 will not be far from \$450,000,000. This immense trade is carried on almost exclusively by two steamship companies, the Hamburg-American Packet Company and the North German Lloyd.

Effect of Competition of Charter Tonnage

But will not the actual or potential competition of charter tonnage minimize the evils which might arise from steamship pools and monopolies? It must be evident from the through nature of traffic that charter tonnage and similar competition is not only

²The Cunard Line has kept itself freer from pool agreements than have the other lines.

³Number sailings eastbound in 1906 from Boston, New York, Philadelphia, Baltimore, Norfolk and Newport News to Hamburg:

Hamburg-American Packet Company; Union Line, owned and operated by Hamburg-American Packet Company.....	198
Other sailings	9

a negligible factor but that it is non-existent in so far as merchandise is carried on through bills of lading.⁴ In the transoceanic trade, charter tonnage does not and cannot offer an effective successful competition to line steamers, for it is without the following essential elements in through transportation:

1. To become a successful competitor requires—
 - (a) Regular sailings from a fixed berth.
 - (b) Facilities for granting through bills of lading, east and west bound, as well as local bills of lading.
 - (c) Terminals, at which traffic as it currently arrives can be received and cared for preparatory to transshipment aboard ocean carriers.
2. Such organized responsibilities in connection with the issuing of bills of lading (local and through) as would be satisfactory to shippers, bankers, underwriters, buyers, and others concerned.
3. Chartered steamers would not be willing to fit themselves with dunnage and other requirements necessitated by the miscellaneous character of the general cargo to be carried, nor would marine underwriters, unless at exorbitant premiums of insurance, cover perishable or delicate cargo by such conveyance.
4. In the transoceanic trade, chartered tonnage rarely supplements the capacity of line steamers, except for the single article of grain, and then only when grain freight rates are much above an average figure.
5. Under ordinary conditions merchandise is now transported from Chicago to the seaboard in fifteen to thirty days. It is therefore idle to assume that either charter tonnage or "fill up" rates can in any way affect the transportation of commodities other than in the case of those originating at the seaboard.

As industries, such as steel and iron have been integrated, so also have the transportation systems of the world become welded into a compact organization. This amalgamation has brought with it great evils, but it has also been a great boon to the commercial world. Twenty-one years ago the American people determined to rectify the wrongs which carriers were in the habit of visiting on shippers. To this end, they passed an act to regulate commerce.

⁴Each succeeding year charter tonnage becomes less and less a factor in world transportation. See Railroad Gazette, Vol. 44, May 8, 1908, The Ocean Carrier, J. Russell Smith.

When that act was passed, the process of amalgamation had scarcely begun. The logical outcome of integration was totally unforeseen. No one dreamed that ocean commerce would be so organized as to form an essential and inseparable part of inland commerce. No one imagined it possible to construct the monster *Mauretania*. No one would have prophesied that a single company would in less than a quarter of a century possess more tonnage than the over-sea steam tonnage of America. No one would have risked his reputation by asserting that within twenty years a foreign steamship company would reach into the storehouses and mills and factories of our middle West. Yet such are the conditions at present.

II

Present Authority of the Interstate Commerce Commission

The Interstate Commerce Commission was created by an act of Congress, February 4, 1887.⁵ In the Hepburn Bill, June 29, 1906, entitled "An Act to Regulate Commerce,"⁶ many of the defects in the former act were remedied. The commission has risen from the capacity of an advisory board to the dignity of a court with inquisitorial powers. It is the purpose of this portion of the paper to discover the intent and control which the commission may exercise under this act over through traffic as described in the foregoing pages.

The first section of the law defines the jurisdiction of the commission. Eliminating unimportant words, it is as follows:

That the provisions of this act shall apply to any corporation or any person or persons engaged in the transportation of oil or other commodity . . . and to any common carriers engaged in the transportation of passengers or property wholly by railroad (or partly by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment) . . . from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property, shipped from any place in the United States to a foreign country and carried from such place to a port of transshipment, or shipped from a foreign country to any place in the

⁵24 S. L. 370.

⁶59 Congress, Sess. I, Ch. 3591.

United States and carried to such place from port of entry either in the United States or an adjacent foreign country: *Provided, however,* That the provisions of this act shall not apply to the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property wholly within one state and not shipped to or from a foreign country or to any state or territory as aforesaid.

The carriers affected by the act are primarily railroads. Under certain circumstances water carriers may also come within the act, but this occurs only when there is some common control, management, or arrangement existing between a rail and a water carrier. Thus a steamship company transporting coal from Philadelphia to New York is exempt from the provisions of the act. Suppose that same steamship company enters into a contract with the Reading Railroad Company to carry coal to New York brought by the rail carrier to Philadelphia, then the steamship company, by virtue of this contract, would make itself amenable to the federal act.

The commerce affected falls into two groups: first, that destined to or emanating from adjacent foreign countries; second, that carried on within the United States. The purpose of the phrase, "adjacent foreign countries," is to give the commission control over the commerce moving partly within and partly without the United States, in the same manner and to the same extent that it exercises authority over commerce moving from state to state. It has been decided by a federal judge, and also in a case before the Interstate Commerce Commission that "adjacent" means contiguous. In the former,⁷ Canada and Mexico were specifically named as being adjacent; in the latter,⁸ Cuba is declared to be not adjacent, and⁹ "substantial continuity of rails" is asserted to be the essential feature of the term "adjacent."

The immense and rapidly growing commerce to foreign countries not adjacent, described in the first part of this paper, is without the jurisdiction of the Commission, although much of our foreign commerce to non-contiguous territories is forwarded on through bills of lading from the interior of the United States, and is carried by rail to the seaboard and then transported on board a

⁷United States *vs.* Chicago, Burlington and Quincy, Judge McPherson (unreported).

⁸Lykes Steamship Line *vs.* Commercial Union *et al.*, 13 I. C. C. Rep. 310.

⁹Decided April 6, 1908.

steamer, ultimately arriving at the port of destination without the intervention of the shipper or any one on his behalf. In the case of the *Cosmopolitan Shipping Company vs. Hamburg-American Packet Co. et al.*, 13 I. C. C. 266,¹⁰ Commissioner Lane, speaking for the commission, offered four reasons for lack of jurisdiction:

1. Such construction was given to the act by the Senate committee which presented the original act of 1887.

2. The act itself elsewhere (than in section 1) defines the carriers engaged in interstate commerce to which the act was made applicable.

3. Such construction is alone consistent with other provisions of the act.

4. The decisions of the courts lean toward such construction.

(1) The chairman of the Senate committee, in presenting the original act to the Senate in the year 1886, used these words:

While the provisions of this bill are made to apply mainly to the regulation of interstate commerce, in order to regulate such commerce fairly and effectively it has been deemed necessary to extend its application also to certain classes of foreign commerce which are intimately intermingled with interstate commerce, such as shipments between the United States and adjacent countries by railroad, and the transportation by railroad of shipments between points in the United States and ports of transshipment or of entry when such shipments are destined to or received from a foreign country on through bills of lading.

(2) The act of 1887 authorized and provided a method of procedure whereby the enforcement of the provisions of section 6, touching the filing of tariffs, might be secured in the following words:

And the said commissioners, as complainants, may also apply in any such circuit court of the United States for a writ of injunction against such common carrier, to restrain such common carrier from receiving or transporting property among the several states and territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several states and territories of the United States, as mentioned in the first section of the act, until such common carrier shall have complied with the aforesaid provisions of this section of this act.

¹⁰Decided March 9, 1908.

The wording of section 1 as to foreign commerce remains to-day as it was in 1887. The act of 1906 left out section 6. But, said the Commission, through Commissioner Lane, page 273: "The omission of this provision, therefore, we do not take as indicating that thereby any extension of the jurisdiction of the Commission was intended."

(3) If it had been the intention of Congress to give the Commission jurisdiction over water carriers transporting foreign commerce, it might be expected that adequate machinery for law enforcement would have been provided. In Commissioner Lane's opinion the following appears:

Page 274, "We look in vain, however, through the many provisions of this statute for the slightest recognition of such carriers or of the traffic which they handle. No machinery has been set up in the act by which its provisions can be enforced as to transatlantic steamship lines."

(4) The belief held by many, that the jurisdiction of the commission was co-extensive with the commerce of the United States, was based largely upon the language of the court in the Texas and Pacific case, 162 U. S. 197. After quoting the words of the earlier act, which are identical with those of the present act, beginning with the words, ". . . carriage to such place from a port of entry either in the United States or an adjacent foreign country," the learned judge in handing down the opinion of the court said:

Page 312, "It would be difficult to use language more unmistakably signifying that Congress had in view the whole field of commerce (excepting commerce wholly within a state) as well that between the states and territories as that going or coming from foreign countries."

The Supreme Court never intended that broad construction which these words seem to convey. Judge Sanborn when called upon to interpret section 1 of the Act to Regulate Commerce, in the case of *United States vs. Colorado and Northwestern R. R. Co.*,^{10a} referring to the Texas and Pacific case, said:

Page 329, "The statement that Congress had in view the whole field of interstate commerce when it passed this act is far from an assertion, and could never have been intended to be a declaration that Congress had regulated, or had intended by that act to regulate, every carrier engaged in interstate commerce within its regulating power, for that was obviously not the fact."

^{10a} 157 Fed. 321.

In the dissenting opinion in the Texas and Pacific case of Mr. Justice Harlan, with whom concurred Mr. Justice Brown, is to be found a comprehensive statement as to the limitations placed on the authority which may be exercised by the commission. Referring to section 1 of the Act to Regulate Commerce, he said:

Page 245, "From this section it is clear that the Texas and Pacific Railway Company is, and that the ocean lines connecting with that company are not, subject to the provisions of the act."

The first direct and final exposition of the jurisdiction of the commission is to be found in Commissioner Lane's opinion in the Cosmopolitan case:

Page 279, "Therefore from the language of the act itself and the evident purpose of Congress in passing the act and the decisions of the courts, meager and unsatisfactory as they are, we are inevitably drawn to the conclusion that this commission has no jurisdiction over the transatlantic steamship lines herein involved, even though they may be parties to a through arrangement for a continuous transportation in connection with a railroad within the United States. On foreign commerce to a non-adjacent country the jurisdiction of this commission over carriers therein engaged ends at the seaboard."

While the commission has emphatically stated that it is without jurisdiction over any water-borne commerce with foreign nations other than those adjacent, it has asserted with equal emphasis its complete authority over the entire inland portion of the through transportation of merchandise destined to foreign ports. This jurisdictional right over so much of the carriage as may be inland is based on that portion of section 1 of the act which provides as follows: The act applies ". . . to the transportation in like manner of property shipped from any place in the United States to a foreign country and carried from such place to a port of transshipment"

It is immaterial whether the merchandise transported originates in the state wherein is situated the port of export, or whether the merchandise has already crossed a state line; that the merchandise in question is destined to a foreign country is sufficient to give the commission jurisdiction. Machinery moving from Syracuse to New York City upon through billing to a European point comes

under the control of the federal authority rather than state authority, because it is foreign commerce. Such merchandise is within the jurisdiction of the commission from the time it starts on its initial movement, until the moment it is transhipped on board the ocean carrier; then it passes out of the purview of the commission. On this point the commission has expressed itself in unequivocal terms. In the *Cosmopolitan* case, Commissioner Lane said:

Page 281, "The federal government has said that this commission shall exercise jurisdiction over the inland portion of the haul, either to or from the foreign country." . . . "This ruling is the only one which is consistent with what seems to be the policy of the law, viz: that while restriction and control are essential as to inland carriers of foreign commerce, the ocean carriers of such commerce should remain unrestricted and free."

Just one week had elapsed after this decision was reached, when, on March 16, 1908, Mr. Justice Day, in handing down the opinion of the Supreme Court in the case of *Armour Packing Company vs. United States*, 209 U. S. 56, confirmed the correctness of the position taken by the commission. At page 78 of the opinion appears the following:

We think the language of the statute, read in the light of the manifest purpose of its passage, shows the intent of Congress to bring interstate commerce within the control of the provisions of the law up to the time of ocean shipment.

Thus the extent of the jurisdiction of the Commission with respect to foreign commerce is at last clearly defined. The commission has neither control over the merchandise after transshipment takes place, nor jurisdiction over the transoceanic carrier. Its authority terminates at the seaboard. This conclusion was reached almost simultaneously by the Interstate Commerce Commission, by the Circuit Court of Appeals, and by the Supreme Court of the United States.

III

Consequences of Incomplete Jurisdiction

From the decisions cited in Part II of this paper, it is evident that Congress must have intended that ocean commerce should be free from any restrictions whatsoever as to rebates, publicity, main-

tenance of rates and pooling. The transoceanic carriers may do every one of the things which the inland carriers are prohibited from doing. Where two millers ship flour, or two packing houses consign provisions to a European port, both pay the published inland rate in the negotiation, but as a general rule they pay different ocean rates. The two through rates enjoyed, combination or joint, as the case may be, may result in discriminatory rates between shippers, or in various preferences enjoyed by one to the disadvantage of the other. But the transportation is a through transportation. The contract is a through contract. It is an entirety.

Under former conditions, whenever a through bill of lading was involved, the steamship companies became partners with the railroads in all of the latter's evil practices. The indictments recently brought against the Southern Pacific Railway Company and the Pacific Mail Steamship Company, for rebating on foreign traffic, indicate that such partnerships may be of the present as well as of the past. Where two carriers are engaged in performing parts of the same service, no matter with how painstaking a care enforcement of the law is sought against one, if the other party to the arrangement is permitted to remain without supervision an invitation is thereby held out to continue the very evil it was intended by the law to suppress. The indivisible nature of present through transportation makes it impossible to apply one set of rules to one part of that transportation, and another set of rules to another part of it. The inland carrier may be an innocent or guilty accessory to the unfair dealings; it may be an unwilling partner to discriminations between persons, or between places: but in either event, under the present law the ocean carrier goes free. And unless the inland carrier may be brought to book, as was suggested by Commissioner Lane in the *Cosmopolitan Case*, the Commission is powerless to afford relief.

Under the present ruling, ocean commerce is without the jurisdiction of the Commission more fully than intrastate commerce is without the jurisdiction of the Commission.

On the supposition that certain ocean rates are liable to fluctuate, a low ocean rate may be quoted to a favored shipper in return for large inland shipments, just as a low intrastate rate may be offered as a special inducement for interstate shipments. The Commission is thus placed in the position of endeavoring to compel

one of the partners to a through contract to obey the law, while it is forced by a deficiency in the same law to ignore rebating, discriminations, and other reprehensible practices of the other partner—the very thing it was intended to prohibit.

The Interstate Commerce Commission is the guardian of American Commerce. Its mission is to prevent discrimination, to give to great and small, to the giant corporation and the humblest shipper, a fair chance in matters of transportation. But under present conditions, steamship pools largely dictate the rates, the line, the route, the method and every other condition of traffic to which the American producer, manufacturer, or shipper must submit, if he desires to introduce his merchandise to foreign consumers in other than adjacent foreign countries. What possible difference can there be from the shipper's standpoint whether the discrimination or preference be suffered at the hands of a railroad, or at the hands of a steamship company?

The Interstate Commerce Commission is also a special committee of Congress invested with inquisitorial powers, created for the purpose of collecting data by which Congress may be guided in the preparation and enactment of appropriate commercial legislation. Congress may call upon it for expert information concerning only those carriers which are within the meaning of the act. But Congress having failed to give the Commission authority over ocean carriers is unable to avail itself of the splendid ability of a highly trained body when inquiry is made concerning the conditions of trans-oceanic trade and traffic. Congress must acquire information from other sources, necessarily less competent and less reliable. Legislation suffers accordingly.

Two points may be cited as consequences of the incomplete jurisdiction of the Commission:

First.—Congress sought by law to put shippers on an equal basis. The act of 1887 is without the elasticity so necessary to meet changing conditions of trade and traffic. The abuses which the activities of the Commission have practically wiped out in the field of interstate commerce have been transferred to another field—the field of interstate-oceanic commerce. In the latter field the authority of the Commission is too limited to be effective. The old evils are renewed; the only change is that the sufferers are a

new group engaged in doing a similar business but over a larger area.

Second.—Congress, having failed to give the Commission complete jurisdiction over the enlarged business area, is without what would have proved a most reliable and fertile source of information on which to base legislation. Instead of drawing on an impartial source for information, Congress can apply only to those whose so-called vested interests may be affected. This is made more unfortunate by the fact that the greater portion of our trans-oceanic commerce is carried on by interests not American. Biased legislation has been the inevitable result.

IV

Suggested Legislation

With the growth of those fields from which our export merchandise is drawn and into which it is transported, it is presumable that there should be a corresponding amplification of the powers of the Interstate Commerce Commission, not in severity but in breadth of scope, thus enabling the Commission to keep pace not only with changing commercial conditions, but also with the rapid commercial development of the United States. Before any constructive legislation can be offered for consideration, it must be established to a certainty that it is both possible and practicable to give the Commission control over the ocean portion of through transportation.

The relation of ocean carrier to railway in through transportation is almost identical with the relation of railway to connecting railway in the same through transportation. For example, there is a conventional division of charges between all the carriers—payment for the entire transportation being made at the point of origin by the shipper to the carrier receiving the merchandise. Subsequently the proper charges due to the remaining carriers upon the route are paid over to them respectively. That the railroads and steamship companies regard each other as portions of the same route is clearly indicated in the following account, which shows the method of carrying forward and dividing transportation charges. It is to be noted that the steamship company receives its payment precisely in the same manner as does any railway carrier succeeding the carrier at the point of origin. There is a conventional divi-

Statement showing adjustment, division and final statement of total through freight (inland and ocean freight) on a shipment of 250 sacks flour (in 220 pound cotton sacks) from Alton, Ill., U. S. A., to Copenhagen, Denmark.

Inland freight.....	16½ cents, Alton to Philadelphia	\$90.75
Ocean freight.....	14 cents, Philadelphia to Copenhagen	77.00

Total through freight..	30½ cents per 100 pounds (weight of flour, 55,000 pounds, was prepaid in cash at Alton, Ill.)	\$167.75
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The earnings would be divided and distributed among the transportation companies as follows:

	\$167.75	Alton, Ill., to Edwardsville, Ill., 2 cents per 100 pounds,	
Less	11.00	amounting to	\$11.00
		to be deducted from the total amount, and the balance	
	\$156.75	(\$156.75) paid to agent of the connecting road.	
	\$167.75	From Edwardsville, Ill., to Continental, O., the earnings	
Less	36.68	divided on basis of 35.9 per cent, a total of.....	\$25.68
		Total earnings on this point (\$36.68) and balance	
	\$131.07	(\$131.07) paid to the agent of the next connecting road.	
	\$167.75	Between Continental, O., and Buffalo, N. Y., earnings	
Less	55.18	would be based on 25.88 per cent, the local earnings....	\$18.50
		The total earnings to this point, \$55.18. This amount	
	\$112.57	would be deducted and balance of charges (\$112.57)	
		paid over to the agent of the next connecting road.	
	\$167.75	Between Buffalo and East Penn Junction the earnings	
Less	75.67	would be on the basis of 28.66 per cent, the local	
		earnings being	\$20.49
	\$92.08	A total earnings up to this point of \$75.67. This would	
		be deducted from the total amount and the balance,	
		\$92.08, paid to the agent of the next connecting road.	
	\$167.75	Between East Penn Junction and Philadelphia, earnings	
Less	90.75	would be on the basis of 9.55 per cent, local earnings..	\$6.83
		Philadelphia terminal charge	8.25
	\$77.00	A total of \$15.08. This amount, plus the \$77.00 ocean	
		freight, would be placed to the credit of the agent of	
		the terminal road at Philadelphia.	
	\$77.00	The railroad agent in Philadelphia would deduct the	
Balance.		freight from East Penn Junction to Philadelphia, and	
		the terminal charges at Philadelphia, amounting to-	
		gether to \$15.08, as per above, and pay over to the	
		ocean carrier balance of the total through freight and	
		charges, Alton, Ill., to Copenhagen, Denmark	\$77.00
			<hr/>
			\$167.75

sion of charges between all the carriers. Total payment for the transportation is made at the point of origin and subsequently the proper agreed-upon proportions are paid over.

The commerce clause of the constitution has given Congress power to regulate the foreign and interstate commerce of the United States. No similar authority is granted over intrastate commerce. Nevertheless the Supreme Court has said that where an intrastate carrier receives merchandise from outside that state, and such merchandise is shipped under a through bill of lading, and a conventional division of charges is made, such commerce is within the jurisdiction of the Commission.¹¹ If the authority of the Commission can thus be projected into a state where Congress can have no direct authority over interstate commerce, much more can that authority be projected over the ocean where Congress is specially authorized to regulate commerce with foreign nations. It follows as by demonstration, that when ocean carriers operate within the United States; when they enter into contracts for the carriage of through freight on through bills of lading from interior points in the United States to ports of ultimate destination; when they participate in through rates and charges,—then they become a part of a continuous line, not by consolidation, but by arrangement for a continuous carriage or shipment. When such conditions as these are present it follows that the Interstate Commerce Commission could readily be given authority to exercise the same jurisdiction over the ocean carrier as it now exercises over a carrier wholly within a state acting in a similar manner towards a connecting interstate carrier.¹² It is legally possible to give the Commission control over the ocean portion of through transportation.

Are there insurmountable practical difficulties in the way of giving the Commission control over the ocean as well as the inland portion of through traffic shipments? It may be said that to give the Commission authority worthy of the name will be to interfere unduly with the ships of foreign nations, and thus disturb international comity. Such an assertion is without foundation. It is the common practice of all nations to lay down firm and unequivocal rules with which the ships of all nations must comply before being allowed

¹¹*Social Circle Case*, 162 U. S. 184.

¹²This is now the rule with respect to the Great Lakes which are also international highways. U. S. *vs.* Wood, 145 Fed. 405.

to carry cargo from the ports of the legislating country. England, Germany, and other countries from which emigrants come to America make specific requirements as to space, ventilation, food, fire protection, etc., that must be provided before a vessel is permitted to depart with its quota of emigrants. This applies not alone to the vessels of the legislating country but also to the vessels of other nations.

The United States government exercises absolute control over the exportation of cattle from its ports.¹³ Fifty-nine regulations, applying to vessels no matter what flag they may fly, provide among many other things minute details for the feeding of the cattle, the space and location which they must have, the places in which food must be kept, the order of its use, etc.¹⁴

The ships of foreign as well as domestic owners cannot clear from our ports if there is on board a single can of lard which does not bear the stamp of the Department of Agriculture stating that it "is from animals that were free from disease and that it has been inspected and passed as sound and wholesome, as provided by law and regulation of the Department." The government of the United States forbids the ships of foreign powers to sail unless the cattle on the decks of their vessels have stanchions of a certain kind of wood, of specified dimensions, placed in such and such a manner. If all these stipulations can be carried out without a jar to international comity, it is certainly neither unnatural nor abnormal that this country should also require that these same commodities should, when the vessels of any nation are finally permitted to sail, be carried under conditions which do not produce discriminations within our borders. This is a necessary prerequisite to safeguard the freedom of intercourse, prosperity, and the general welfare. There is, therefore, precedent for giving the Commission control over the ocean portion of through transportation, and there need be no fear of thus disturbing international comity.

In order effectively to regulate foreign commerce of the United States it is not necessary for us to go into foreign countries or in

¹³See Bureau of Animal Industry, Order No. 189, and acts of Congress approved March 8, 1891; March 22, 1898; March 30, 1906.

¹⁴The minuteness of this control may be discovered by referring to Regulation 56, which provides, "that the inspector may, in case he finds that any of the fittings are worn, decayed, or defective in construction or appear to be unsound, require the same to be replaced before he authorizes the clearance of the vessel."

any way trespass upon their sovereignty. A foreign company may make whatever agreements it may please or do any acts in its own land, but when it comes to the doors of the United States and wishes to do business with our citizens, Congress has the constitutional power to require such a company to dispossess itself of all agreements and all practices that are in conflict with either the letter or spirit of our laws. Indeed, the transoceanic carrier frequently transports merchandise for a long distance on the waters of the United States. For example, merchandise shipped from Chicago to Copenhagen via Philadelphia must be carried by the ocean steamer one hundred and one miles down the Delaware River before the vessel puts to sea; or if the merchandise is shipped via Baltimore, the vessel must traverse more than one hundred and sixty miles of waters belonging to the United States. Thus a monopoly of the ocean portion of through transportation, or an ocean pool, or a discrimination may be consummated within our gates. Since the United States is sovereign over its own waters, regulation of ocean carriers can be made effective, and abuses of the sort described above can be eradicated.

Ocean carriers and inland carriers are inseparable parts of through transportation, and it is an established fact that gigantic pools and monopolies dominate trade and traffic on the high seas. That there results a large degree of control over the inland portion of through transportation by those having the mastery of the ocean cannot be doubted. It has been demonstrated that it is not only possible, but that it is practicable, to give the Interstate Commerce Commission power to supervise the ocean portion of through transportation. To this has been added the power of precedent already set. It has been shown that regulation of the ocean portion of through transportation can be supported by an effective sanction. Finally, the Interstate Commerce Commission, by virtue of its relation to inland carriers is the logical repository for any supervisory authority that may be granted for the purpose of regulating transoceanic carriers.

It is not suggested that the Commission should be given power to refuse steamship companies the right of access to the United States. No such power is contemplated. The exercise of such a power would never be endured by our own merchants or by foreign nations. But a proper extension of authority over through trans-

portation would, in no way, impinge upon foreign sovereignties. The Commission should be given the power to require any steamship company of whatever nation, doing business within the United States, to deal fairly with American exporters and importers, and with American competitors flying the flag of the United States. The Commission should be given authority to ascertain to what extent blame should be attached to a steamship company as well as a railway company for giving undue preferences. The Commission should be given authority to forbid any steamship company to discriminate within the United States between persons, places, and things. The Commission should be given authority to prevent the fulfillment of any contracts between steamship companies, the consummation of which would result in the improper pooling of traffic in the United States. Those steamship companies which might refuse to conform to the spirit and letter of our Constitution and laws should be refused the privilege to transact any business beyond our seaboard.

The Interstate Commerce Commission ought to be given practically the same general power over the ocean carrier with respect to through transportation as it now exercises over the inland carrier. Transoceanic steamship companies forming part of a through route should be required to file with the Interstate Commerce Commission rates concurred in with the trunk line railroads and associates. These line tariffs should be accessible to anyone applying at any steamship company's office. If the Commission were given power to compel the respective inland and ocean carriers to file and concur in joint through rates and follow the rates so filed, the steamship companies themselves would be greatly benefited. Rates would be less susceptible to variation, and a desirable degree of stability, now sought to be maintained by improper methods, legally accomplished. More publicity of rates would minimize the unfair conditions under which shippers of through merchandise labor, and tend to rectify other present abuses. Railway rates now filed and published stand for at least thirty days unless the Commission issues an order permitting them to be altered in a less time. This minimum period might be changed to ten days for through traffic without greatly affecting the real purpose or beneficial results of the law. As indicated heretofore, such a ten-day period would not be unjust for through traffic as applied to ocean carriers.

Steamship companies should be required to file with the Interstate Commerce Commission all contracts entered into between themselves and with the railways relative to through transportation of merchandise. Such contracts would show whether certain ports or places were suffering from discrimination. If discrimination were present the improper contract could be dissolved.

If the Interstate Commerce Commission is to accomplish fully the wise purpose for which it was created it should be given general supervisory authority over steamship companies forming a part of a through rate. Some of the benefits flowing from wise supervision which would reach both the carriers and the shippers have already been indicated. Benefits would at the same time accrue to various departments charged with the administration of government. Thus not only would carriers and shippers be put upon a fair and equal basis, but a fertile source of material, necessarily in the hands of a supervisory body, would also be readily accessible on which, among other things, to base standards of transportation costs.

The first objection, and the one advocated with greatest pertinacity, offered to this program is, that it is impossible to file with the Commission an ocean rate as part of a through rate. This contention is based upon the assumption that ocean rates are not stable, but changing from hour to hour and from day to day. No one will deny that this contention is reasonably true as to purely ocean commerce. But no one knows better than a steamship man how altogether specious is the claim that through rates are constantly fluctuating, and for the following reasons: (1) The rate at which much of our through export and import merchandise moves is now fixed annually by contracts between ocean carrier and shipper. (2) Furthermore, as already pointed out, it ordinarily takes at least from fifteen to thirty days to transport flour, provisions, oil cake, etc., from the point of origin to the seaboard. (3) The plea of necessity of offering "Fill up" rates to obtain cargo falls flat when applied to through traffic.

The plea that it is necessary to offer a low rate to a large shipper and a high rate to a small shipper in order to obtain merchandise for transportation, has been exploded so far as railways are concerned. Equality of railroad rates to shippers is to-day recognized as an accomplished fact. Why not equality of steamship rates as well? It is possible, practicable, and desirable. The railways do not chafe

under the control of the Interstate Commerce Commission. They welcome the protection and stability which obedience to the Act to Regulate Commerce affords. Their rates are open to all. Access to their services is denied to none. If the proposed extension of the Commission's power becomes an accomplished fact, the benefits now enjoyed by the railroads alone will then be equally shared by the transoceanic carrier. Transportation facilities of every sort will be denied to none and the benefits of wise legislation will be made permanent.

The most gratifying result of the commercial legislation of the United States is the fact that there is now a fair chance for the inland producer and shipper, however great or small he may be. The giant corporation cannot now crush out its humble rival through the willing or unwilling connivance of the railway. Under present conditions the giant corporation holds the same advantage over the small shipper when both are engaged in the export trade, as it did twenty years ago when both were engaged only in the domestic trade. Our laws should therefore be amended so as to bring about equality throughout the whole field of our commerce.

PART FOUR

***The State and the Nation as Units
of Control***

FEDERAL USURPATIONS
BY HON. JOHN SHARP WILLIAMS,
MEMBER OF CONGRESS FROM MISSISSIPPI.

DEVELOPMENT OF THE FEDERAL GOVERNMENT
BY HON. THEODORE E. BURTON,
MEMBER OF CONGRESS FROM OHIO.

THE NATION SHOULD SUPERINTEND ALL CARRIERS
BY HON. C. M. HOUGH,
JUDGE DISTRICT COURT OF THE UNITED STATES, NEW YORK CITY.

RAILWAY REGULATION IN TEXAS
BY HON. JAMES L. SLAYDEN,
MEMBER OF CONGRESS FROM TEXAS.

CORPORATION REGULATION BY STATE AND NATION
BY HON. HENRY M. HOYT,
SOLICITOR-GENERAL OF THE UNITED STATES, WASHINGTON, D. C.

NO COMBINATION WITHOUT REGULATION
BY TALCOTT WILLIAMS, LL.D.,
PHILADELPHIA.

FEDERAL USURPATIONS

BY HON. JOHN SHARP WILLIAMS,
Member of Congress from Mississippi.

All governments, whether free or not, which have existed and fallen have fallen by weight of political machinery. There has come a time in their histories when government and its machinery was the first consideration, and man and his individuality—the support of government—the second. It is well always to keep in mind the primal fact that while government is necessary and ought to be made good, it is yet, after all, a necessary evil growing out of the vices of human nature. It is a means to an end, which end is the happiness and freedom and development of the individual man and woman; and is never an end in itself.

This idea was carried further in the formation of our federal government than in that of any other government. In a certain sense indeed the federal government is not the government of these United States at all, but is a piece of central machinery organized to hold together in union the several governments of the several United States and protect them by union from mutual aggression and from aggression by foreign powers. Federal usurpation of power is not a recent growth. It was a necessary concomitant of the rule of the old federalists. Hamilton and men of his way of thinking, delegates to the constitutional convention, strained every effort to procure a stronger, or as they would have said, a more stable government than that which was as a matter of fact reported to the people for adoption in the original constitution. Though defeated in the convention in many of their essential purposes it was but natural that when the constitution was submitted to the peoples of the respective states, that they should have become the most strenuous advocates of its adoption, because though giving birth to a government not so strong nor so centralized as they desired, it still inaugurated one very much more to their liking than the old confederation. They soon found that the objections to its adoption were not based on its being too weak a bond of union, but were precisely the contrary. They therefore neces-

sarily based their advocacy upon the plea that it did not interfere with the real rights and sovereignty of the states, within their spheres; that the states would still have such rights as were not delegated expressly or by proper implication, and in their advocacy they emphasized how little authority and power, comparatively, the new federal government would have. Notwithstanding this fact, the discontent with the constitution as it came from the hands of its framers was so great, upon the ground that it did not sufficiently safeguard the inalienable or natural rights of the individual and the reserved rights of the states, that it was adopted only upon the understanding that the first ten amendments should be added to it. They were immediately added after the adoption of the original instrument.

If you will dispassionately take up our fundamental law and study it without the first ten amendments, you will see that it would have launched into existence the least democratic of all governments now existing amongst English-speaking peoples. As originally framed, there was no express guarantee of the freedom of the press, freedom of speech, freedom of assembly, trial by jury or habeas corpus—in fact, most of the muniments that had been secured by war and legislation to the race before it crossed the Atlantic were unprotected, whether these muniments had been embodied in the habeas corpus act, in the bill of rights, or in some other instrument.

George Washington was not really a member of any political party. He had the idea that government with free institutions could be carried on without parties, and deplored their existence as factional. At the beginning of his administration this idea was his guide. Later on, after Jefferson had retired from the cabinet, and Hamilton became unrestrained adviser, the administration did take on a somewhat federalistic hue. When John Adams came in, with the real federalists in supreme power and full control, then the note of federalism in the shape of federal usurpation of power began to assert itself. The great usurpation of federal authority in the alien and sedition laws was an illustration of the legislative and executive side of the government. When Adams was retired, he left the bench in control of federalist judges, the greatest, most ingenious, as well as perhaps the most sincere of them all being John Marshall. The Dartmouth College case, in my opinion the

Illiad of all our woes, in so far as our inability properly to control corporations is concerned, and in so far as judicial construction has brought about federal usurpation, naturally followed. The decision giving the right to the federal government to establish and maintain a national bank, for which no authority could be found in the organic instrument, except by fiction of law, was another result of a federal judge's attempting to construe into it something sought in the convention to be embodied and the granting of which had been refused.

Every governmental abuse is based upon some plea or pretext, and the usurpation of power by government is generally based upon "necessity," the "tyrant's plea." This real or fancied necessity generally grows out of war. This has been especially true with regard to legislative and executive usurpations by our federal government.

Amidst the universal plaudits which he has received and deserved there are few people left ungracious enough to give sufficient emphasis to the part which Abraham Lincoln and his cabinet had in changing the spirit, if not the form, of the American government. The doctrine of "war powers" came into being, and after war had passed and peace had come the usurpations following from the exercise of the so-called war powers furnished precedents for their continuance and for other usurpations like them. It has always been said *inter arma leges silent*, there are undoubtedly certain powers which have been recognized to belong to all governments while forces are operating in the field and in the enemy's country beyond those which are conceded to the same governments at peace and at home.

During the war between the states the executive first asserted and Congress afterwards attempted to confer upon the executive the right to suspend the privilege of the writ of habeas corpus not only in the territory which was within the boundaries of the confederacy, but within the states which had remained faithful to the Union, and which did not constitute a field of war. Things went so far that the privilege of the writ of habeas corpus was suspended on the order of a lieutenant-general acting under general authority of the President. This in spite of the words of the constitution upon the subject and the uniform dicta of text books and decisions of courts.

The Secretary of War and the Secretary of State on bare orders based upon no affidavit even, much less indictment, arrested and confined men within the loyal states and spirited them off to prison. Federal marshals and police did the same thing. All this, too, prior to the act of March 3, 1863, whereby Congress attempted to confer upon the President the power and the right to suspend the writ of habeas corpus, a power vested by the constitution according to all judicial construction in Congress alone.

Men were convicted of murder and treason without a jury trial. Under a proclamation of the President amongst the classes to be thus treated were those who "magnified the resources of the enemy," those "inflaming party spirit among ourselves." It seems almost incredible now to believe that men could have been taken out of their beds at night and carried away to prison, without even affidavits, by ignorant marshals who determined for themselves the question whether or not those seized and imprisoned were guilty of disloyalty, especially when disloyalty was defined in such vague terms as "magnifying the resources of the enemy," "underrating our own," or "inflaming party spirit amongst ourselves."

In December, 1866, in the case of *ex parte Milligan*,¹ the Supreme Court pronounced the proclamations of the President unconstitutional and the act of Congress so, except when "confined to the locality of actual war," and not elsewhere, and to places "where the courts are not open."

There are those who believe that the branch of the government most guilty in the field of federal usurpation is the judiciary. This is not true. Upon the whole the courts have been a bulwark of protection for the natural rights of the individual and the reserved rights of the states. Judicial usurpations, which have been successfully accomplished have not been a tithe of those which have been unsuccessfully attempted by the federal legislature and the federal executive. The Ku Klux act which would have carried the federal authority into every man's home within the states in the enforcement of criminal law, the civil rights act, which usurped to the general government nearly all of the police powers of a state, and the control of the social affairs of the citizen, are illustrations of attempted federal usurpations set aside by the court.

During the period immediately after the war between the states

¹ 4 Wallace, 2.

Congress fought most viciously against the courts, frequently taking away from them jurisdiction on the subject matter, or attempting by acts of Congress, and sometimes successfully to prevent appeals to the Supreme Court of the United States. A book might be written, and a very interesting one too, upon usurpations flowing out of the Civil War and out of the supposed "necessities" of a reconstruction of the Southern States. Some of the usurpations that owe their real existence to the Civil War still remain to plague us, for example, the legal tender case. The constitution deprived the states of the power to emit letters of credit and issue paper currency, a power which was inherent in their sovereignty, but which had been found to be greatly abused. Hamilton himself contended that not only was this power not granted to the federal government, but that in spirit it was prohibited to it. Nobody ever did or does now doubt the right of the government to issue a note as evidence of indebtedness when it has not the money wherewith to pay. But nobody up to the Civil War had ever, for one moment, dreamed that the government had a right to levy a forced loan upon the people by making its notes a legal tender for the payment of debt. This legacy is not justly attributable to the judiciary, but to the President and the Senate.

You are familiar with the manner in which this result was arrived at. After a first decision by the court declaring the legal tender act unconstitutional, the addition of a new judge to the number on the bench and the appointment of another judge to fill a vacancy on the old bench caused by death accomplished a reversal. It requires no imagination, but a plain view of the field only, to realize what an immense capitalistic and centralizing influence the judicial construction into the constitution of this power which was never granted, to wit, the power to make of government notes a legal tender to take the place of gold and silver has vested in the federal government.

John Marshall in the case of *McCullough* against Maryland had early in the history of the country upheld the power of the federal government to charter a national bank of issue, although a proposition in the constitutional convention to confer such power had been expressly offered and expressly voted down. The opinion in the case upheld the bank as a "fiscal agency" of the government, and as such it was declared that it could not be taxed by a

state, because such power of taxation would carry with it to one sovereignty the power to destroy the fiscal agencies of another. And yet long afterwards when the law to establish the present national banking system in order to strengthen the credit of the government and increase the price of its bonds, carried a provision to tax note issues by state banks 10 per cent (it being admitted that this tax was levied not for the purpose of revenue, but for the purpose of stamping state bank issues out of existence), the court cavalierly flung aside the doctrine that one sovereignty could not tax out of existence the chartered instrumentalities of another, and held, in substance, when it sustained the constitutionality of the 10 per cent tax, that it could. The power to issue "money" directly in the shape of legal tender treasury notes, the power to confine the function of bank note issuance to national banks and to monopolize their regulation have together given to the federal government that power and influence over finance and business which makes other usurpations, whenever all three branches of the federal government are desirous of them, irresistible by the states or by the people thereof.

The early assertion by Congress of the power to levy import duties not simply as taxes for raising revenue, but for the admitted purpose of hothousing into prosperity at the common expense such industries as in the opinion of Congress it is for the common interest and general welfare to hothouse, has given a whip handle, if not a mastery, over the manufacturing interests of the country to the federal government. The usurped control of finance and of manufactures, together with the immense powers actually vested by the constitution itself in the federal government, under the treaty clause and under the interstate commerce clause, have made a government stronger than any that Hamilton and his compeers ever dared attempt to inaugurate in the constitutional convention—stronger than any that Marshall ever dreamed of construing, or wanted to construe, into existence.

This is true when you consider the real power of Congress under the interstate commerce clause, when it is exercised honestly and genuinely for the sole constitutional purpose of the regulation of interstate commerce. When you consider that this power has been abused as a means to accomplish ends not contemplated by it, this conclusion is stronger. Consider the full effect of the lottery

cases and the oleomargarine cases carried out to their logical results as precedents for future legislation and judicial decisions.

What has been actually accomplished by legislation regulating, or pretending to regulate, interstate commerce, is as nothing compared with what is proposed. A brilliant young Senator from Indiana proposes to control child labor within the state through the interstate-commerce clause by denying to products manufactured within a state interstate passage, when produced by child labor, though employed in accordance with the laws of the state of their manufacture. If Congress has power to do this it has power also to say that no products shall be carried in interstate commerce, if produced where labor is employed for longer than eight hours a day. If it has a right to do either, it has a right to say that no man or woman shall travel upon an interstate ticket who has been divorced according to state divorce laws which do not meet with the approbation of Congress.

Early in the history of the country the House of Representatives sent to the Senate a bill to regulate and work certain copper mines in New Jersey—I believe it was, if my recollection is correct—and Mr. Jefferson, in his playful but philosophical manner, said that their method of deriving this power from the constitution was about this: "Congress has a right to provide for the common defense; ships are necessary for the common defense; copper is necessary to finish ships; mines are necessary to be worked in order to get copper, and, therefore, Congress has a right to work mines within the states," and he added that anybody who had ever followed the reasoning in "The House that Jack Built" could readily understand and be convinced by the force of the argument.

We are told now that water is necessary for interstate commerce; that erosion of hillsides and mountains fills up the water courses; that deforestation leads to erosion; that reforestation will stop erosion, and that, therefore, under the interstate commerce clause, Congress has a right to enter into the states, with or without their consent, buy up all the mountain sides, and turn them into public forests, an argument probably logical, but very attenuated.

By parity of reasoning Congress might enact a force bill under the interstate commerce clause basing it upon the right of Congress to say what should or should not enter into interstate commerce as freight or as passengers. It might, therefore, say that any man

elected to Congress, unless elected in accordance with a certain law passed by Congress, should not be permitted to travel in interstate commerce, and therefore should not be permitted to leave his state and come to Washington to take his seat as a representative. I know, of course, that the *reductio ad absurdum* is not the safest of argument, but it sometimes makes things ridiculously clear.

Add to all this power over finance, banking, commerce, manufacture, the immense spread of the activities of the Department of Agriculture. It is furnishing seed to the farmers, it has established a stock farm in one of the states for the purpose of breeding "a standard national horse," and the right of entering into a state, with or without its consent, and constructing roads not only between the states but within the states is being almost asserted. With construction will come the assertion of the right to control, if not to police such roads.

The undoubted right of Congress so to regulate interstate commerce as to stop the spread of disease amongst men, animals or plants is being driven to its utmost, and will be driven beyond its utmost, legitimate application. That the operations of the great Department of Agriculture are beneficent there can be no doubt. The few millions appropriated each year for that department accomplish more good than ten times as many millions appropriated for other purposes. But it does not follow that because a given work is wise and beneficent that the federal government has the right, or ought even by amendment to be given the right to do it, nor does it follow that because the federal government does beneficently carry it on that it could not have been carried on quite as beneficently by the states, if the federal government had stayed out of the business. In connection with agriculture, for example, I, for one, believe that if the federal government had never undertaken to do anything at all with it the general condition of agriculture in the country would yet have been quite as good as it is, perhaps better, because then the states would have established magnificent agricultural departments with experimental stations, training schools and all that; would have vied with one another from New York to California in doing the work, each actuated by the motive of excelling others in the prosperity brought by improving the basic art. The department wants the federal government to go further and to inaugurate and maintain in the state technical, agricultural

and manual training schools, with what measure of federal control it has not thus far seen fit to indicate.

Take as the next illustration the gradual assumption of power to the federal government in connection with works of irrigation. That Congress has a right to irrigate the public lands so as to make them valuable, and enable them to be sold so that the money thus placed in the treasury as the proceeds of otherwise worthless lands may inure to the interests of all the people, there can be no doubt. Growing out of this right Congress has taken hold of the work of irrigation everywhere on private lands as well as on public domain. It has added to that the kindred subject of drainage, because undoubtedly if Congress has power to put water on lands outside of the public domain it has an equal power to take water off of lands outside of the public domain. The departmental work does not seem to have received even a momentary check from the decision of the Supreme Court in the great case of *Kansas against Colorado*, in 206 U. S., where the court says that "no one of them" (to wit, the enumerated grants of power and authority to Congress in the constitution) "by implication refers to reclamation of arid lands."

In some cases where Congress has usurped power and where the courts have subsequently set aside the acts of Congress as unconstitutional the wrongs perpetrated under the act have been perpetuated. The Captured and Abandoned Property Act is an instance in point. After the general amnesty proclamation of the President it became evident that the money lying in the treasury from the sale of captured and abandoned property would have to be restored to the Southern people who had owned it. A rider on an appropriation bill of July 12, 1870, undertook to annul, and Congress, by refusing to appropriate the money out of the treasury practically has annulled the subsequent decisions of the court upon this subject. Millions of dollars are now lying in the treasury accumulated there under this act of Congress which the court subsequently held to be a special fund owned by the owners of the property. There is no way of getting it out however, because, as the court properly says, it requires an act of Congress to appropriate money once covered into the treasury. Here is a case where federal legislation has been adjudged invalid and unconstitutional, and yet where the people injured by the usurpation have

suffered the effect of it, until they died, and their heirs or assigns are suffering the deprivation yet. The money in the treasury derived from the cotton tax and still kept there is another instance in point.

I have referred to the war between the states as a source of much federal usurpation. The Spanish-American War might be referred to in the same connection. The Constitution of the United States provides for the separation of the judicial, executive and legislative functions. In the Panama zone, the executive alone has been and is exercising not only executive but judicial and legislative functions. When a resolution was introduced into Congress, and passed by it, asking under what authority of law the President was doing this, the answer came that it was under authority of certain acts of Congress, their dates being recited, and under a treaty with the so-called Republic of Panama, as if either an act of Congress or a treaty could confer upon the executive the right to exercise judicial or legislative powers, in the teeth of an express constitutional prohibition of their consolidation.

Our experiments with schemes of crown colonialism in the Philippines now, and for a while in Porto Rico, were so stupendously alien to the spirit of all of our institutions as to be at once horrible and amusing. Department law clerks sent out as proconsuls are learning in the Philippines and in Cuba to-day lessons which will return to plague the republic at home. You need not expect that what is learned there will be forgotten here. In Rome the Emperor was first a field officer in Gaul or Asia—in the enemy's country or in conquered countries. Then there came the exercise of powers as Emperor in Rome itself. Marius and Sulla, as well as Julius Cæsar, were virtually emperors long before Augustus Cæsar had founded what we now call the Roman Empire.

Peace is important to all peoples. I sometimes think that two-thirds of the energies of all the statesmanship in the world might be profitably employed in the maintenance of peace throughout the world. But, if important to other peoples, it is doubly so to us with our peculiar dual government, the balance of which is so nicely adjusted and so vital, and which is always shaken by the *sequelæ* of war. We never know beforehand what these *sequelæ* are going to be. You hear much of "the horrors of war." The greatest of all these horrors is the murder of local self-government, the only possible field of development for individual manhood.

The spirit of crown colonialism will be found to be contagious. Accustomed to it in all its spirit in our daily administration of colonial affairs, the public will gradually become accustomed to the insidious introduction of its features at home. No free government can successfully control alien and unassimilable peoples except by the violation of the fundamental principles of free government itself. Our forefathers recognized this when they placed the Indian tribes on a footing with foreigners, to be dealt with by treaty. The mailed fist, well exercised to its task, is dangerous ultimately to liberty of citizens much more than it is even to subject peoples. The system will some day drag down England herself to the exhaustion of her sons and her revenues in maintaining her hold upon India. The inauguration of the system by us in the Philippine Islands, unless once we have the good sense to put the people of the archipelago upon their own feet, teach them to stand alone and leave then standing afterwards, will have the same effect on us in the long run. The Philippines are even now furnishing the excuse of great armaments, naval and military, and they constitute to-day the one point of unnecessary and unnatural contact out of which great wars may, if not must, ensue.

These federal usurpations are going on not only through the executive, and the legislative, but—insidiously, gradually, unmarked,—they are going on through the administrative branches of the government. Charles I lost his head, and James II his throne, because of executive and administrative suspensions of acts of Parliament. The American people have become so accustomed to the suspension of laws by mere non-enforcement by the executive, or some obscure bureaucrat under the executive, that you perhaps could not excite real alarm in the minds of five men by a full recital of them all.

Mr. Shaw, while Secretary of the Treasury, took money already covered into the treasury, and under the guise of depositing it virtually loaned it to such banks as he chose without interest. This, notwithstanding article I, section 9, clause 7, of the constitution, which reads: "No money shall be drawn from the treasury, but in consequence of appropriations made by law." The same Secretary of the Treasury quietly construed the disjunctive "or" in a law passed by the Congress to have the meaning of the conjunctive "and," so that when Congress had by law said that

those receiving deposits of public money—not deposits of money already covered into the treasury, remember—but deposits of money collected from internal revenue and not yet covered into the treasury—should deposit as security United States bonds “and” other bonds, that it means “or” other bonds. Upon this he quietly issued a ukase to the effect that he would receive such securities as complied with the savings banks laws of New York and Massachusetts, and would dispense with the deposit of United States bonds altogether in his discretion.

The discussions in Congress at the time that the law under whose alleged authority he acted was passed show the reasons for the original act. People forget now that there was a time when United States bonds were not at par. It was wise, therefore, upon the part of Congress to provide that the Secretary might require other security as *additional* to that of national bonds in order that the security might always be equal in par value to the money loaned. I need not dwell upon the total torturing of the original meaning by the Secretary’s decision. Secretary Cortelyou ruled later on that under the provisions of a law permitting the issuance of treasury certificates “when necessary to meet public expenditures,” he was enabled to issue certificates to get money in order to help the banks by free loans in a panic.

An administrative board of the United States, engaged in the business apparently of seeing that due “protection” is rendered to “American industries,” and finding that there was no tariff on frog legs which were being imported into our territory, to the detriment of the great “American industry” of bullfrog raising, gravely ruled that they were taxable under the provision which put an import duty upon dressed poultry.

What has been accomplished in the way of federal usurpation by the national legislature and executive, and set aside by judicial authority, or left to stand and stay to plague us yet, does not constitute a tithe of what we are to expect, if some recent utterances by great and popular men are to be taken at their face value.

The President, in his Harrisburg speech, delivered in the month of October, 1906, says: “In some cases this governmental action must be exercised by the states. In others it has become increasingly evident that no sufficient state action is possible and that we need through *executive action*, through legislation and through

judicial interpretation and construction, to increase the power of the federal government. If we fail *thus to increase it* we show our impotency."

Mark the language. "We need"—that is the old familiar tyrant's plea of necessity—to do what? To increase the power of the federal government. The very verb "increase" is the President's word, and is a confession that the federal government does not now possess the powers desired to be annexed—a confession of deliberately contemplated usurpation. And to do it how? Not by amending the constitution, even though we had to amend the amendatory clause in order to make the work of amendment easier. But by "executive action," by "legislation," both of them necessarily, if there be an *increase* of power, violative of the constitutional limitations upon executive action, and upon federal legislation. It cannot be too often repeated that this is true, or else the word "increase" would not have needed to be used. And third, and more insidiously still, "through judicial interpretation and construction"—by the soul of all insidious revolution! Mark the words well in your memories.

Secretary Root, in his New York speech in December, 1906, evidently following up a deliberately laid scheme by supplementing the President's speech in Harrisburg in October of that year, uses this language: "Sooner or later constructions *will be found to vest* power where it will be exercised in the national government." Secretary Root is a lawyer. He knows what the verb "vest" means. Vest means to give, to deposit a new power, not merely to apply an existing one to new conditions. His language is, to "vest power." His ground and excuse and reason for "vesting" it is that it must be "placed"—placed, mark you—where it will be exercised. The necessary inference is that it is now vested in the states, and that they ought to be divested of it, because they do not exercise it. His method of vesting power again is like the President's—not by amendment to the constitution, whereby the people themselves can redistribute the powers which are theirs and which they originally distributed between our dual sovereignties, but "by constructions" which are to be "found." Found by whom? By the very men who are to exercise the power construed into being or "found."

An American citizen does not take an oath of allegiance to

any government. His oath of allegiance is to the constitution. Every officer who serves the federal government, from the President down, whether he be cabinet officer, judge, senator or representative, takes this oath. It is now proposed that the officers of the federal government shall vest power in themselves by construction and that they shall increase their power through executive action. Think of it! And yet in all the land no hint or suggestion of impeachment.

This method of amending the constitution does not require a two-thirds majority in each house, nor three-fourths of the states in confirmation of it. It is easy. It requires nothing but momentary forgetfulness of an oath registered in the chancel of God. It is not a personally dangerous thing to attempt or to do. It may perhaps even be applauded.

What is more, the President proposes to "make good"—a phrase he is fond of. I have no time to refer to all the circumstantial evidence, but run over in your minds our recent history: Root's part in it in the Philippines; the acts of our proconsular agent in Cuba, this proconsular agent having been a law clerk in Washington; the present condition of things in the canal zone, and the frequent chidings by the President of the courts where they do not decide to suit him, showing a purpose of bending and warping the personnel of the supreme and other federal courts to an incorporation of his policies by judicial construction as a part of the authority of the federal government. No lawyer not entertaining an opinion favorable to these policies can go upon the bench unless he succeeds in fooling the President, or unless the President fools himself, as to such lawyer's legal opinions. Daniel Webster was right when he said that: "the judicial power cannot stand for a long time against the executive power." The President has already during his tenure of office appointed one-third of the Supreme Court and over one-half of the subordinate federal judges.

Judges on the district and circuit bench, although they hold their offices during good behavior, feel ambition like other men and would like to fill vacancies upon the supreme bench as they arise. They can furnish no course better calculated to bring about that result than to let it be known by their decisions as subordinate judges that they share the President's opinions, and among others, perhaps chiefly, his opinion of the rightfulness of "increasing" federal power "by construction."

The difficulty of amending the constitution is the excuse at heart for most federal usurpations, this with, and even more than, the alleged "inaction of the states." It was well that at the beginning the practice of amendment should have been made extremely difficult. The important thing was to put the government upon its feet and teach it to march, as the French say; to stop experiments with the framework until the people had become accustomed to it. We have reached the point now where there are many amendments that ought to be made to the organic law, first, because they are highly beneficent in themselves; secondly, because we want to do away with this excuse and pretext of usurping power in order "to do good." It has been said that the federal constitution cannot be amended except as the result of some great cataclysm, or foreign or civil war. This is a mistaken statement, but it is true that it is very difficult indeed, to amend it, so difficult as to be, under ordinary circumstances, almost impossible. If you have a system which is too difficult of legitimate change you thereby invite illegitimate change or usurpation.

The first clause in the constitution that ought to be amended is the amendatory clause itself. The practice of amending the constitution ought to be a difficult one, but not so difficult as it is now. It would seem that to require a majority of ten per cent, over one-half in each house, voting for two Congresses in succession to submit an amendment, would be a requirement sufficiently difficult in the initiative. This would require at present 51 senators and 215 congressmen, and as that vote would be required in two successive Congresses, the scheme would give the people an opportunity to pass upon the proposed amendments tentatively when they came to elect the first Congress after the proposal of the amendment. If to this it were added that the proposed amendments should not become a part of the fundamental law unless they had been adopted both by a majority of the people and by a majority of the states, the practice of amendment would not be rendered so easy as to lead to many propositions of amendment, and still would be made easy enough to encourage a hope upon the part of those who wish to preserve our institutions that they would not be destroyed by the very organic difficulty of changing them.

It is not, however,—note ye well,—in this way that either President or Secretary proposes to go about the introduction of

reforms, or a redistribution of governmental powers. It is not proposed that it shall be done deliberately by amendment upon the initiative of the national legislature and upon the confirmation of the people in the states, but that powers are to be "vested" in the federal government and that federal powers are to be "increased" by "constructions" which are "to be found" or "by executive action" and "by legislative action" and by a judicial reading into the instrument of that which is confessed by the very language used not to have been written into it. There has been a recrudescence of federalism here lately, alarming in its proportions. We begin to hear a great deal once more about "inherent powers" "powers ordinarily exercised by sovereign nations," and therefore as is claimed to be exercised by the federal government. The President talks about court decisions which have left "vacancies," "blanks" between federal and state powers, and wants these vacancies and blanks filled, occupied, "by executive action," "by legislative action" and "by judicial construction." No decision of any court could possibly have ever left a blank or a vacancy between the powers to be exercised by the federal government and the powers to be exercised by the states. The moment the court decides that a given power is not one of those granted to the federal government, either expressly or by proper and honest implication, that moment the court has decided *e converso* that it is a power reserved in the states by virtue of the eleventh amendment, is in other words one of the powers not delegated but reserved to the states "or to the people." What can be of more "national concernment" than murder, theft, insanity? Yet no one would contend that the federal government was granted the power to legislate to punish them within the states.

Much has been written about what is meant by the phrase "or to the people." In my mind it is clear—the powers not delegated are reserved either to the states or "to the people" *for redistribution* as they may choose by amendment of the constitution. Both state and federal governments are their servants, not their masters. The people of the United States, acting within their respective states, have the right of distribution of governmental power. Again, individuals also have certain natural and inalienable rights, to which reference is likewise made in the phrase—these are by nature reserved to the people as rights not to be touched by state or by

federal government—by any governmental or political agency whatsoever. That man does not understand the nature of American institutions who thinks that arbitrary and unlimited power is vested anywhere under our system, even in a majority of the people themselves acting through any government or by themselves. There are things which under our system a majority cannot do, whether they are in their opinion right to be done or not. Thus high was the sacredness of individuality held by our forefathers.

I was talking a moment ago about the influence of the executive over the judiciary. I quoted Daniel Webster to the effect that the judiciary could not stand long against the influence of the executive, and yet the spirit of the times is such that it has been gravely proposed in a bill introduced in the House to make this influence still greater. That bill, introduced on January 4, 1907, provides that the President "whenever in his judgment the public welfare will be promoted by the retirement of a judge" may retire him, "with the advice and consent of the Senate," and appoint somebody else, who shall take his place. This would give to the President and the Senate of the United States absolute control over the judiciary.

Our executive department has carried the Root doctrine into its dealings with Congress. Where Congress will not enact legislation that the executive wants, some administrative department construes it to exist, as was the case in the graded age pension ukase issued by the commissioner of pensions. A bill had been pending in Congress to accomplish the precise result. Congress would not pass it. The executive, through the commissioner of pensions, amid popular applause, construed it into existence.

When, later, it was proposed upon a general appropriation bill to insert a clause enacting into law the graded pension system thus promulgated, the point of order was raised that the motion could not be entertained by the House when a general appropriation bill was under consideration, because it was "contrary to existing law." In other words, that the amendment containing the very language of the ruling of the commissioner of pensions was a change of existing law. This point of order was sustained. Sustaining it was an admission of the fact that the executive order had promulgated a new law—that a branch of the executive had legislated. If, on the contrary, the point of order had not been sustained, then the very fact of the adoption of the amendment

would have been a confession of the fact that Congress needed to act in order to make good that which by executive order had been promulgated.

A treaty with Santo Domingo was pending before the Senate of the United States, which the Senate for a long time refused to confirm. The executive, being determined to have its own way, Senate or no Senate, did, as a historical fact, for two years before the ratification of the treaty by the Senate, execute the terms of the treaty.

The President at one time had a nomination of a certain South Carolina negro named Crum pending in the Senate, and the session came to an end without action on it. Thereupon an extraordinary session having been called to begin at 12 o'clock on the very day upon which the former session expired, Secretary Root and the President, between them, construed into existence what they called "a constructive recess." That is, that between the beginning of 12 o'clock meridian and the end of the same 12 o'clock meridian on a given day "there had been a recess," and this being the case the President had a right to reappoint this proposed appointee during this so-called recess. He *did* reappoint him thus contrary to law and the Senate was subsequently coerced or persuaded to confirm him.

The logical inconsistency of public opinion in America was never better shown than with regard to this incident. The President's construction into existence of a constructive recess for the purpose of saving his right of appointment aroused no indignation, although it was the act of one man. He had, however, set a precedent which soon found imitators. If there had been a recess, then members of Congress were entitled to mileage for the recess rather for the new session following it. They, therefore, very logically, according to the precedent set by the executive (although, of course, very wrongfully, but no more wrongfully than the President) and voted themselves mileage for the "recess." A storm of disapprobation from the throats of the people and the columns of the newspapers swelled to heaven. The Senate voted the extra mileage out and President, people and all "congratulated the country." The man who imagined the iniquitous thing and acted upon it secured the result that he aimed at and was little, if at all, criticised. The very Senate that voted extra mileage out of the law upon the ground

that there had been no constructive recess, finally confirmed the appointee whom the President had hurled back at them upon the theory that there had been a constructive recess.

Franklin Pierce, in a recent book that ought to be taught in every school and college where civil government is taught, a book entitled "Federal Usurpation," from which I have drawn much for this speech, says: "Social evolution progresses actually with the importance of the citizen over the state and decreases in the proportion of the importance of the state over the people." All these propositions of adding to the powers of government by "executive action" and "legislative action" and "judicial construction" and "constructions to be found" leave that great truth out of sight. I know of no people who have too little government. We do not want an America like Sparta, where the state was all and man was nothing. We want no Rome even, where responsibility was so entirely devolved upon government that when government itself grew weak there was no initiative left among the people even to resist invasion,—a herd of helpless sheep, they were.

Our weight of political machinery is increasing all the time. Not many years ago there were about two hundred special agents and detectives in the employ of the government. There are over three thousand now, going around hunting up by detective methods violations of federal statutes. A detective is like an expert in the medical profession. He generally finds what he is seeking. God never made a throat or nose to suit a throat and nose expert; he never made a pair of eyes to suit an eye specialist. The Department of Justice uses a great many of these detectives. When you begin to inquire under what authority of law, it is difficult to procure an answer. That department seems to borrow them from the Treasury Department. In other words, they are detailed from the Treasury Department to do work for the Department of Justice. The law appropriating for them in the Treasury Department appropriates for them for the expressed and sole purposes of ferreting out and procuring punishment of counterfeiters and violators of the internal revenue laws. They are being used for a hundred other purposes—peonage is the immediate fad—public land stealing was a few months back. In so far as special agents are being used for the purpose of investigating trusts and bringing them to book, there is authority of law independently.

Judge George Gray well says in a recent speech that: "In Rome when a dictator was appointed, his instructions were 'to take care that the state receive no harm.'" This was a pretty broad authority. Mr. Bryce, the author of "The American Commonwealth," seems to think from what he says that our Presidents in times of acute peril may or must, act on a like instruction. The present President does not seem to think that it is necessary to wait for a time of acute peril, but that the instruction is good "for any old time."

When the New York Constitutional Convention adopted the Constitution of the United States, it adopted it with the proviso that there should be no extension of power "by legal fiction." This was to prevent usurpation of federal power by construction. How far the power of legal fiction may carry a system of laws may be realized when it is remembered that from the twelve tables of ancient Rome there grew up by construction and legal fiction the *corpus juris civilis*, and from a lot of old customs there grew up by court precedents nearly all of the body of what we call our "common law."

The only restraint that we have upon executive usurpation is either judicial constraint or impeachment, and the only restraint that we have upon judicial usurpation by construction is the power of impeachment by the House of Representatives before the Senate acting as a grand court of impeachment. It requires two-thirds of the Senators to convict and the sole penalty is deprivation of office. The process is surely difficult enough at best and the penalty light enough. The Swain case, however, shows to what extent we have gone in limiting that power. Federal judges are chosen, to use the words of the constitution, "during good behavior." It would seem that their independence is sufficiently protected by this tenure and the difficulty of obtaining a verdict of removal by two-thirds of the Senate. But if we are to learn any lessons from the Swain case at all, the phrase, "during good behavior," has been construed to mean "during life, except when the judge has violated the express provisions of a penal statute." The power of impeachment was given to protect the people from "high crimes." They are necessarily indefinable. What higher crime can there be than treason? What greater treason than treason to the constitution, our sole sovereign, to whom alone we swear allegiance? What greater treason

than the terrible attempt by a judge to destroy the integrity of the organic law by construction, with deliberate intent to make law or to increase federal power? Yet our President and his chief secretary encourage this very form of treason, insidious and horrible, and there neither is nor can be any penal statute against it.

Do not misunderstand me. There is a difference between these latest day propositions and the application of an undoubtedly granted power to a new condition. If the federal government had been granted expressly or by fair and honest implication power over a given subject matter, no change of phrase in that subject matter can balk the application of the power. The power over interstate commerce, for example, could not be limited because human invention had brought into existence steam railways as instrumentalities of commerce. But it remains true that in construing the organic law the duty of the judge lies in holding to the old maxim, "*Ita lex scripta.*" Nor is it necessary to enter into the formerly mooted question as to whether this construction should be narrow or broad, strict or liberal. What we want is an honest and sincere construction of the real words and the real intent and the real purpose "nought extenuating nor setting down aught in malice." Otherwise construers of law become makers of law—judges become legislators.

I am one of those who believe that infinite damage has been done by the study and popularity of Hon. James Bryce's book, "The American Commonwealth." It is almost impossible for an Englishman to understand our system based upon the underlying theory of a written constitution. The Constitution of Great Britain is a thing of construction, or evolution, of growth by judicial construction,—growth by changing opinion. Parliament has unlimited power, subject to certain fundamental natural rights of the individual which, broadly stated, are "the inherited rights of free-born Englishmen." Mr. Bryce, therefore, in dwelling with apparent pleasure upon the fact that the Constitution of the United States might be changed by judicial construction (changed now, mark you, not developed) was acting very naturally for one of his environment and training. He could not appreciate the horror in the mind of a real American,—really in love with the institutions of his own country,—for the very thing which he dwells upon with a tolerant, if not a favorable eye.

I shall not say much more, however, about judicial usurpation, because there has not been as much usurpation by that branch of the government, either attempted or consummated, as by the other two. Upon the whole, our judiciary has rather preserved the constitution from popular passion and impulses, from party spirit and sectional hate, and as Congress and the executive grow wilder, it sets aside from year to year a larger and larger proportion of their acts. During the entire period before the Civil War it had set aside only two or three general acts. Just how many multiples of that number have been declared unconstitutional since I cannot now say, but we have grown accustomed to the Supreme Court's checking up Congress and the President every now and then, and the prayer of every good American is that it may do so "more and more unto the perfect day."

Yet the judiciary has made some apparently queer decisions lately. In *Mankichi's* case, which came up from Hawaii, there had been no indictment nor any unanimous verdict of twelve men—in our constitutional sense a jury verdict—against the prisoner, and yet the Supreme Court affirmed the case upon the ground that the laws of Hawaii when annexed to the United States had not required an indictment and had made provision for a jury that did not find a verdict by unanimity. Upon what principle the court arrogated to itself the right to say just what fundamental constitutional principles should go with the constitution to Hawaii simultaneously with the annexation, and which of those fundamental notions should remain behind, to go later or not at all, presents a curious study.

The gradual growth of injunctions in federal courts constitutes the chief thing to complain of in connection with that branch of our government. Originally the equitable right of injunction was issued when the law remedy was inadequate or the damage irreparable and did not apply to crimes. In *Lennon's* case,² however, men were actually enjoined for refusing to haul cars of a railroad and for leaving the employ of a railroad, while under the charge of a receiver appointed by a federal court, on the ground that their quitting the employment "crippled the railroad's operation," and I believe, if I remember correctly, also upon the ground that it interfered with interstate commerce. This injunction was issued in

²106 U. S.

spite of the thirteenth amendment, which forbids "involuntary servitude except for crime."

If everything that can be construed to be an interference with interstate commerce is to be taken as a just ground for an injunction, a man who shoots another riding on a ticket from Philadelphia to New Orleans would, so far as I can see, subject himself to federal penalties instead of being simply tried for murder, according to the laws of the state of the place where he committed the murder. Even when United States penal statutes exist, where a man can be arrested upon affidavit and rendered harmless, the federal courts still issue injunctions.

The power to inflict punishment for indirect contempts,—constructive contempts,—contempts committed not in view of the court, punishments which carry deprivation of liberty and deprivation of property without a jury trial is another abuse. These things encourage a spirit of anarchy. Every man, if possible, ought to have a trial by jury. Injunctions are issued by one judge on *ex parte* hearing, on mere affidavits without notice even to the defendant and on reference of questions of fact to one referee. Upon such evidence as that and upon such findings of fact as that the enforcement of state laws, passed deliberately by state legislatures and approved by state executives, is enjoined. The plea generally is that the state law is "confiscatory." Of course when upon a hearing properly had after due notice to both sides, and a proper investigation of the facts, state legislation is found to be really confiscatory, it must be set aside by permanent injunction as conflicting with the Constitution of the United States. But that is not the question here. The question is whether the temporary restraining order issued *ex parte* upon mere affidavits and so-called ascertainment of fact by a master in chancery, very little acquainted with the subject matter and very little able to judge of it, should prevail, to annul a state statute.

Let us notice a tendency to usurp federal power under the treaty clause. Calhoun says that treaties are the supreme law of the land "provided such regulations (in treaties) are not inconsistent with the constitution." I quote Calhoun because he went further than almost anybody in maintaining the plenary power of the federal government to regulate our intercourse with foreign powers. If the treaty attempt to treat concerning some subject

matter, the regulation of which is not delegated to any branch whatsoever of the federal government, then that treaty is "inconsistent with the constitution," as being inconsistent with the purpose for which the federal government was formed. If it attempt to treat of some subject matter the regulation of which is delegated to any branch, I care not which one, of the federal government, I admit the plenary power of the federal government. That the treaty can give an alien equal rights with the citizen, even within a state concerning a subject matter that the federal government would otherwise not control, I do not doubt; but that it can give him superior privileges to a citizen I deny. If by treaty with Japan, for example, California can be forced to admit Japanese, or by treaty with China it can be forced to admit Chinese, to the same schools with white children, then by treaty with Haiti or Santo Domingo negroes from those islands could be admitted to the same schools with white children in Mississippi, let us say, where native-born negroes, citizens of the United States, cannot attend white schools.

The President in a Massachusetts speech is quoted as saying: "States rights ought to be preserved when they mean the people's rights, but not when they mean the people's wrongs." In God's name who is to say what are people's rights and what are people's wrongs? If I undertook to answer the question I should say *the people themselves*. And then if I were asked further—how they were to say it or have said it, how they were to draw the line or have drawn it, how they were to prescribe the people's rights and proscribe the people's wrongs—I would say through the fundamental organic law,—the Constitution of the United States, and in the constitution of the several states, which are *the prescribing voice of the people themselves*. "Thus far and thus far only shall any governmental authority over man ever go."

We are running mad. The latest proposition is to have a law for federal registration of automobiles, on the ground that automobiles do sometimes travel over state lines! It is proposed by the President to charter, and by Mr. Bryan to license, corporations chartered by the states, to enter into interstate business. The President's latest astounding proposition is to leave a branch of the executive government to distinguish between good trusts and bad trusts, mark out one for a license to do business and another for extirpation while maintaining the substantive part of the present

anti-trust law. What a campaign contribution breeder that would be! How the combinations and trusts—the present substantive law being cunningly retained—would run over one another in contributing to the campaign funds of whichever party was in power in order to bias the executive department of that party in finding them good and not bad!

I have referred, once before to administrative usurpations of federal power as the most dangerous because most insidious and least seen by the average citizen. I wish that some of you, who have time to do it, would study the case of *Ju Toy*, a Chinaman, reported in 198 U. S. This man was born in the United States, went to China on a visit and came back; was sentenced to deportation as an alien by the immigration commissioner, whose sentence was affirmed by the Secretary of the Treasury. In some way the poor devil managed to communicate with a lawyer and to avail himself of habeas corpus proceedings. The referee found Toy's statement that he was born in America to be true. The case finally got to the Supreme Court. That court decided that the question of fact as to whether he was or was not a native-born citizen of the United States had been decided by an administrative tribunal authorized to try it, and that that finding was final and conclusive. In other words, that it made no difference whether, as a matter of fact, Toy was a natural-born citizen or an alien, he was banished, and that was all there was to it!

It is not alone in connection with this case that the courts have held that they could not question the conclusions reached by executive and administrative tribunals, and that no appeal to any court would lie, but in other matters as well. The power reposed in the Post Office Department, although it has not as yet been as seriously abused as it may be, is a power out of which the destruction of the entire principle of the freedom of the press may flow. The department may to-morrow, if it choose, cut off the "*New York Times*," or the "*North American Review*," or "*Collier's Weekly*," from the right to be transmitted through the mails under a fraud order. If it chose there would be no appeal to any court. It could, furthermore, if it chose, refuse by a fraud order to permit any mail to be delivered to either of them, or to me, or to you. It could do this upon the report of detectives in the department, and perhaps the first we would hear of it would be missing our mail.

And may be upon complaint and inquiry by us as to the exact point in which we had offended the department might furthermore return the answer that it was "not practicable to make a reply" to our inquiry. Franklin Pierce, at any rate, quotes a case in the book to which I have referred, where certain printed matter was excluded from the mail on the ground of "obscenity." The department was asked to specify in what respect and how and where there was anything obscene in the printed matter, and it is quoted to have replied that it was "not practicable" to answer the inquiry. It is not to the purpose to reply that the department would not do what I have supposed. That it *might* is a sufficient danger to human liberty.

In the case of South Carolina against the United States,³ the Supreme Court says of our constitution—which, I repeat, is the only sovereign in America, except the people themselves acting in a prescribed way while exercising the power to amend and change it—the Supreme Court says of that constitution that it "speaks not only in the same way, but with the same meaning and intent with which it spoke when it came from the hands of its framers and was voted on and adopted by the people." That phrase ought to be memorized by every schoolboy who is studying "civil government" in a public school. Whatever the British constitution may be,—unwritten, not exactly definable—the American constitution is an instrument of written, prescribed, fixed sentences, phrases and words, that do not dance about kaleidoscopically upon the printed page and bear different meanings to-day and to-morrow, but mean just what they meant when they were uttered, although to-day, of course, they may be applied to very many conditions and instrumentalities that did not exist then. "Whenever an end aimed at is constitutional, then all proper means to that end are also constitutional." The great federal judge himself, John Marshall, uttered these words. The converse to that is not true, to wit, that whenever a certain means is constitutional, therefore the end aimed at is constitutional. Congress has a right, for example, to regulate interstate commerce, but if the end aimed at be not in verity the regulation of interstate commerce, but be the regulation of child labor, or manufacturing, or education within a state, and the interstate commerce clause of the constitution be

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resorted to merely as a means to the accomplishment of this latter end,—an end which in itself is unconstitutional,—then the thing sought to be done is exactly the opposite of that which John Marshall said could be constitutionally done.

One of the things most precious in our dual system of government is that the very fact of there being so many state governments in so many different climates, with so many different sorts of populations, so many different systems of agriculture, such diversity of pursuits and occupation, heredity and environment, enables our laws through the instrumentalities of the state legislatures to be adapted to the needs of the communities. Thus the states become great experimental fields. South Carolina can experiment with the dispensary law. If damage ensue it is limited to South Carolina. The people of the balance of the states can watch it without harm and learn lessons, find out if it is to be imitated or avoided. If Oklahoma wants to make an experiment of governmental guarantee of bank deposits, the balance of the union can watch the experiment with interest and with profit, without loss, no matter how it turns out. If Oregon wishes to try the experiment of initiative and referendum the same observation is applicable. All of us can watch the experiment of woman's suffrage in Colorado and some day imitate it or else learn to avoid it. And so with infinite diversity of surroundings and influence, with emulation existing between localities, the federal government does not need to experiment. In other lands experiments, if harmful, are national hurts.

The very maxim, "*E pluribus unum*," is a Federal maxim. We must preserve not only the "one," but we must preserve with equal care and jealousy the integrity of the "many" governments which constitute our system—an "indestructible union of indestructible states"—"a republic of lesser republics."

May God grant that Jefferson prove right and Macaulay prove wrong and that this constitutional, democratic-federal republic of ours prove not a failure, as it assuredly must, if individual self-government—based on the "self-denying ordinance of a majority" denying absolutism to itself even,—and if local self-government, or home rule,—based on the reserved rights of the states,—be lost sight of by us or our children.

DEVELOPMENT OF THE FEDERAL GOVERNMENT¹

BY HONORABLE THEODORE E. BURTON,
Member of Congress from Ohio.

In the brief time at my disposal, I can only touch superficially upon a few of the principal questions involved in the relation of the national to the state governments. Prior to 1789, it was the despair of statesmen to harmonize two sovereignties each having jurisdiction over the same territory and the same people. Leagues, confederations and federal unions had been tried, but all with more or less discouraging results. Our experiment in the United States has, however, succeeded. Yet we must realize that any federal union must necessarily, in its field of activities and in the balance of powers between the whole and a part, or the parts, respond to changing conditions and emergencies. If the relation between them should be marked by rigidity, if there be no possibility of changing the balance of power between the two, the public welfare would not be subserved. Our constitution was framed in the days of the spinning wheel, the stage coach and the sail boat. Times have changed, and there have been world-wide revolutions in the relations between governments and the people. Laws and constitutions must change with the times. Prime ministers, legislators and presidents must change their views to meet the changing conditions, else they fail of their duty.

Modern civilized peoples, under democratic government and endowed with freedom of action, desire to accomplish ends promptly and in the simplest way. There is ever a powerful tendency to brush aside technicalities, even to disregard settled forms, if they become obstructions. But this disposition, though apparently threatening, cannot be a source of danger; because, unless the modifications which are attempted in the interpretation of established constitutions are acquiesced in as promoting the general weal, they will not be tolerated.

Changes, roughly speaking, have been due to two different

¹In this *ex tempore* address, delivered April 11, 1908, Congressman Burton discussed the paper by Honorable John Sharp Williams on Federal Usurpation.—EDITOR.

kinds of causes. One may be called political. These have been apparent the world over, manifesting themselves in a disposition toward larger nationality, and promoted by patriotism or by sentiment. The desirability as well as the glamour of greater power and influence have shown their effect in uniting peoples of the same blood and race, as in the case of Italy and Germany. Strange as it may seem, nations have gained greater power and enlarged their dominions on the map of Europe more by peaceful amalgamations than by means of war.

Mr. Webster was the great exponent of the supreme control of the federal government. Of him it can be said, as of few statesmen, that he uttered the fiat, "Let there be light, and there was light,"—light on the great questions of the time, light to illuminate the future, light to encourage the patriot and the soldier in the great days of civil strife, and to encourage them to battle for a greater America and a united country. Yet Webster's arguments were for the most part legal and constitutional, and his potent influence was reinforced by the fact that he swam with the tide. Perhaps he foresaw the future. At any rate, his work coincided with forces that were independently operative in his own time.

The other class of changes may be called economic and social. The interchange between counties was not so great when the constitution was framed as between the states in 1908. Philadelphia was further from Pittsburg than it now is from San Francisco. People are now constantly moving to and fro throughout the country. New areas of territory have been settled. The people of every state are interested in the development of the resources of every other state. It is of interest to Pennsylvania and New York that new areas be available for settlement by their surplus population. It is a matter of importance to them that the arid lands of the west should be utilized and made sources of production and wealth for the whole country. The country has a solidarity of interest which it could not have with the old-time means of communication. We have been growing, and are growing, and the most decided manifestation of our growth is that we are nearer together and have year by year a greater community of interest.

Another reason why the federal government is greater than it once was is because of its superior efficiency. It is a matter of common knowledge that if two offenders are to be tried and pros-

ecuted for crime, one in the federal and one in the state courts, there is assurance that he who is prosecuted in the federal court, if he is guilty, will have his deserts, and that promptly. If the prosecution is in the state courts there is a great deal of doubt and delay.

Again, the greater area in which the federal government conducts its operations gives a more comprehensive education, affords a more ample field for reaching correct conclusions and accomplishing great results. Take for instance the geological survey. There are men equal in ability to the members of this service in the employ of the states; but how much more skilfully and satisfactorily can the work be done by men who have the whole country as their sphere of action. The growth of the Agricultural Department, too, is due to no disposition to usurp power which should be left to the states, but to the deserved recognition of the greater care and skill with which its work is done. This department has become a great university, making scientific investigation of the needs of agricultural production everywhere,—alike helpful to the grower of cotton and of grain, alike helpful to the North and the South, the East and the West.

Another factor which has worked in the same direction has been the magnitude of the public works or national enterprises, which in this day require an expenditure and a degree of co-operation difficult to obtain except through the nation. The large expenditures called for often stagger municipalities and minor political divisions.

As I understand my friend Mr. Williams, who has just preceded me, he has introduced a bill for the construction of ordinary highways in the states.

Mr. Williams: That is not true.

Mr. Burton: Well I am glad to hear it.

Mr. Williams: It was a bill giving the surplus to the states.

Mr. Burton: Well I trust there will be a large surplus, but I trust that it will not be disposed of in the way you suggest.

These examples show that there are many undertakings imposed upon the federal government which might well be in charge of the states, and naturally would be. Those who favor a limited sphere of action for the federal government certainly cannot expect their theories to be adopted while they are themselves seeking appropria-

tions from the federal treasury for objects which belong to local communities. I watch with some apprehension these tendencies to rely upon the federal government, for I believe that projects are carried to a successful completion approximately as they are undertaken by those who are in immediate touch with them, by those who can scrutinize and inspect them with accurate judgment to determine whether or not they are wise, and who at the same time have the salutary check which rests upon those who must bear the expense.

It is clearly inevitable that the field and activities of the federal government must increase. Such increase is not the result of any change in political theory or of any usurpation of power. It is due to the greater scope of public undertakings. The most progressive nation on the globe must display a growth and an enlargement of its sphere of action or it will fail to serve its purpose. Whether a gradual readjustment of the relations between central and state governments comes by constitutional amendments or by interpretation of existing laws and constitutions,—such a re-adjustment is sure to come. The amendments to the federal constitution have been very few, but the wisdom of the founders and sufficiency of this great charter have been shown by our ability to meet new conditions without revolution, and without menace to the rights of individuals or states.

This tendency to centralization has no doubt been greatly promoted by the failures of states and minor communities to prove equal to the occasions which arise. With a state it is just as with an individual. If the individual shows ability and practical interest he will have influence in political affairs. If a state displays civic pride, and its citizens grapple with the questions of the times and solve them, if its officials prove themselves equal to each new emergency, then that state will have no occasion to complain of the enlarged powers and influence of the federal government. It is especially true that if the states seek to have the federal government do something for them which each state might do for itself, this will notably strengthen the power of the federal government. Under an ideal condition each city and state should not only be actuated by a desire to accomplish the greatest possible good for the whole people, but should be marked as well by efficiency in attaining great results. If states fall below this ideal condition it is not the fault of the central government, but of the citizens of each state.

I cannot believe that we are to suffer from the usurpation of the executive or any other power. How can there be usurpation when this free people every four years can choose a President and review his policies? Is it possible? President Roosevelt showed the disposition to take the steps which have exposed him to the accusation of usurpation; yet later, when his claims were presented to the people in 1904, he was re-elected by a majority so overwhelming that it is unparalleled in the whole history of popular elections. Even my friend Mr. Williams is maintaining a filibuster. Why? Because even he coincides with this same usurping President in favoring certain legislation.

I may refer to a few specific instances of alleged abuse of power which have been mentioned. Was it not proper and necessary that the federal government should undertake the work of irrigation, not merely because it was for the public welfare but because the problem could be solved in no other way? It was found that in any efficient solution to this question plans must have regard to more than one state. Watercourses furnishing the means of irrigation had their sources in one state and flowed into another. It is true that incidentally the land of private individuals was furnished with water from these irrigation canals. But the great object and end was to bring together the waters of one state and the dry lands of another. There is another standpoint from which this policy may be justified, and that is the right of the government to deal with its own property, that is with its public lands. The recent recommendations of the President looking to the conservation of water for power, for irrigation, for the promotion of navigation and its treatment for clarification with a view to preventing injuries to public health, were based upon the idea that all these uses were so inextricably interwoven that the whole subject should and must be treated as one great problem. With the thought that land is an asset of the people, comes the one that water is a source of wealth which must not be neglected, but the management of which cannot be confined to any one state or limited jurisdiction. A combination of all is necessary for the proper utilization of each part.

Let no man be afraid of the republic or of the extension of federal power. This extension will go on normally as befits a growing and a free people. Many of the evils which are complained of could be entirely avoided if greater pains were taken to thoroughly

establish distinctive jurisdictions for different activities and objects of government. I am strongly inclined to believe that the interstate railways of the country must at an early day be incorporated under the federal government, and be under its jurisdiction. They are a part of the nation's life. They are its great arteries of trade. If a road runs through six or eight states and one state seeks to lower rates almost to the point of confiscation that is injurious to all the other states. In a city in the Middle West an ordinance was passed that no express train should pass through the wide limits of the municipality at a greater rate of speed than four miles an hour. What was the result? Express trains between West and East were delayed twenty minutes by this absolutely unnecessary regulation, framed with a view to compelling the railway company to make certain concessions to the municipality. If a score of towns had adopted similar ordinances communication between the separate states of the country would have been very much hampered.

In some enterprises of large scope the almost forgotten clause of the constitution allowing agreements between states by the consent of Congress might be utilized to advantage. In many minor matters, such for illustration as the construction of roads, certainly those which are not interstate, entire control should be left to the states. They have their own responsibilities, their citizens who desire to take an active part in state affairs; and this citizenship will not accomplish that which it is qualified to accomplish, without leaving to the states a proper sphere of action. But let us not be afraid of usurpation. The dominant influence of a strong hand may be exerted in a case of popular indifference, but the government of this country rests with the people, and though they may be negligent for a time, the great fundamental principles will in the end prevail. You, the electors, are the high priests in the temple of good government. If profane hands enter and defile the altars of liberty it is because you who should be their defenders stand idly by.

THE NATION SHOULD SUPERINTEND ALL CARRIERS

By HON. C. M. HOUGH,
Judge District Court of the United States, New York City.

To clearly state a question, one may assume some matters as axioms without necessarily giving them adherence. When however, in a democratic country, the question put is political, such assumption justifies a suspicion that the speaker believes the sense of the majority, if not a majority of the sensible, to be in favor of the matters taken for granted.

In this spirit I regard as axiomatic these propositions,—that corporations require governmental control; have received too little in the past, and will get a great deal more in the future; that the desire for such control grows largely out of the majority belief that men accustomed to large affairs are somehow untrustworthy, and must be restrained by those less competent in business but more numerous at the polls; that any business affected by a public use must be regarded as a public trust, wherein the trustee is to be governmentally coerced into conduct primarily pleasing to the majority, and it is charitably and sometimes pharisaically hoped, incidentally profitable to himself; and that this governmental control must usually be in the hands either of Congress or a legislature, but in some cases should be divided between them. After making these assumptions, I believe the subject in hand is an inquiry, as to which control center will upon the whole yield the greatest degree of justice, compatible with public convenience.

If the discussion were to take full scope, it might well be asked why *corporate* control only should be considered, for it is obvious that control of corporations as corporate bodies is a comparatively small matter. It is control of *business*, at present largely conducted by chartered companies, that is the question of the hour, in a day when economics have become politics, and political economists are thought producible by referendum or initiative. If business is

to be controlled, it is obvious enough that the substance thereof and not the form of transacting it must be finally regarded by the law,—partnership and private affairs will not be protected from governmental supervision by any absence of incorporation.

Since, therefore, several hundred years of legal history have marked the business of a public or common carrier as one peculiarly within the regulatory or police power of the sovereign, I have ventured, on your president's kind invitation, to speak regarding, not the legality, nor immediate possibility, but ultimate necessity of national control of carriers if the demand for supervision remains insistent. The argument of convenience will usually win in the long run, unless it encounters a moral principle, and that argument favors a centralized control, removed alike from local prejudice and local pride. Is there any moral principle, requiring a business covering navigation, railroads, expressage, telephony and telegraphy, to remain for the most part under the control of forty-six sets of regulations and regulators, when the business itself is national and international, and competition has perceptibly become an economic international conflict?

The impossibility of a fair uniformity, or uniform fairness on the part of so many laws, legislatures and commissions, to the men and affairs regulated, will in time weary all but those who hope for place under one of the conflicting systems, or doctrinaires to whom a theory is dearer than the removal of conditions, however odious. For modern evidence of how divergent and irreconcilable in scope and purpose, and how impotent for ultimate good, our present multifarious systems are and must be, one need but read the published reports of proceedings of the National Association of Railway Commissioners, bulky volumes, not to be considered without sorrow and some cynical amusement.

Secretary Root has recently appealed to the several states to bestir themselves for more efficient governmental regulations, and to subordinate local interests to general welfare. His voice is of one crying in the wilderness, for it is as true now as when Mr. Pinckney said it in 1787, that "States pursue their interests with less scruples than individuals." The Supreme Court has already repeatedly considered endeavors of state authorities to compel the transaction of railway business in a particular state or part of a state at a loss, upon the plea that the interstate business of the

compelled corporation was sufficiently profitable to warrant the local gift. Such a gift is indeed a benevolence in the legal and disreputable meaning of the word. Nor has it been unknown that men in local authority have threatened carriers with drastic hostility in local matters, were not interstate rates made more agreeable to constituents. This is retaliation, not administration, and until the unity of commerce is recognized by putting its agencies under one control, such manifestations of local self-seeking will continue, and probably increase.

It is now notoriously true that the carrying enterprises of the nation, from railways to telephones, are largely owned (if not abroad) in parts of the Union remote from the carrier's region of operation. Can it be denied that the last few years have shown a determined recognition and punishment of absentee landlordism on the part of local authorities engaged in regulating carrying corporations? Such denial is impossible, and it is equally impossible to anticipate a termination of that condition as long as local capital remains as limited as it is in most of the United States, while local rates for money remain higher than the highest return reasonably to be expected from the carrying trade conducted through corporate organization. In most of the states local money does not go into the carrying trade, because it can be more gainfully employed otherwise, but that fact never induces local authorities to recognize the local money rate as the carrier's return rate. It is surely a legitimate position for the public to take, that the owners of the carrying corporations shall have a voice, however still and small, in the selection of their regulators, by making the selection a national and not a local affair.

Again, if conditions perfectly well understood in our older and richer states be considered, the observer must recognize as a figure familiar in the business and political background the corporation of numerous local shareholders of large local influence, and for the time being obnoxious to no considerable class in the community. Has a foreign rival, a new competitor, a fair chance before the local regulatory bodies in opposition to such a carrying corporation? No man of experience in interstate business can answer that question affirmatively, and by just so much as local regulation becomes more organized and better established and more drastic if not more efficient, by just that much will local

pride and local prejudice give to local enterprises a preference undue under the law and undesirable for the people at large. Nor is it either a vain imagining or a jeremiad that a really active, vigorous and selfishly able administration of the carrying business by the coast states may become, and in no long time, a serious grievance to interior producers.

But it is not an unusual change of public attitude for a corporation to become, through the misdoings of one man or the mistakes of a few, an object of local execration. Its pursuit and punishment become political virtues, in which all parties strive to excel. This condition is so frequent to-day, that to name any special corporation would be an invidious distinction. Will not national control allay, if not prevent, local inflammation and render more difficult destruction of what should be cured, but need not be killed in the process?

The relation of foreign to domestic commerce is a subject not to be exhausted by many hours of discussion, and it is of growing importance. The two are interdependent. If domestic operations are disturbed or ill-managed, foreign commerce will suffer. While no matter how well arranged the local management of a state's commercial affairs may be, no one state is strong enough to withstand, and indeed it will not ordinarily discover until too late, foreign domination of its domestic commerce. I do not admit this to be wholly a glance into the future, but the facts of to-day are not publicly understood, and probably nothing will convince any considerable portion of the people of the United States that a real danger here exists, until they discover themselves pecuniarily injured, and by overwhelming evidence.

There is another matter very presently before the public, and as to which the utter inefficiency of state control has been demonstrated beyond peradventure. Next to land investments, the railroads of this country most largely represent the savings of the labor of an industrious people for some hundreds of years. Mr. Mather, of the Rock Island Company, said last fall: "There is a prevailing public belief, based on facts publicly known, that railroad corporations have issued corporate obligations and applied the proceeds to purposes other than those for which such obligations may lawfully be issued." This he regards as the great railway wrong doing—well known and long continued, and princi-

pally productive of that condition of the public mind, which renders our present discussion opportune. He need not have confined his indictment to railroads. The carrying corporations as a class are not more guilty than others, but they have greater opportunities of guilt. With inconsiderable exceptions every carrying corporation in the country is incorporated by a state. Have the states generally attempted to limit the capacity of their corporate creatures for working harm in this way? Certainly not. And can they do it? Considering how states bid against each other for corporate business, it is doubtful. Would they do it if they could? What inducement is there for either the legislative or the executive department of a small or poor state to control the financial operations of a corporation whose financial business is wholly conducted in other states? There is no self-interest requiring the regulations, and I doubt the power of altruism to bring it about.

No one believes, and I am as far as possible from asserting, that national control would be perfect or always wise, but it is necessary. If it be worth while to avoid unnecessary multiplication of conflicting laws; to set a bound upon local selfishness; to protect those citizens whose property is represented in carrying corporations of states not their own; to limit the power of some favored corporations; to protect perhaps the same corporations when political rancor turns against them; to recognize and foster the close relation between foreign and domestic commerce, while presenting a firm front to un-American domination, and to limit by national power the financial operations of common carriers of all sorts then national control must come. If these things be worth attempting or possessing, then so far as the legal framework of our country will permit, the effort of all thoughtful citizens should be to secure control of all the instrumentalities of commerce for the nation as opposed to any and every smaller governmental unit. Whether the result which seems to me desirable be also constitutional is a question not to be elucidated in twenty minutes or twenty days—nor is this the place for such technical discussion.

I have not attempted a brief nor set a program, but have ventured to indicate a desirable goal towards which may press those who have no local axes to grind nor scalps to take and who believe that what is national in extent should not be parochially administered. It may, however, be safely asserted that the field of national

control over the instruments of commerce has scarcely been surveyed, and the legal possibilities within that field are surely large enough in a country where the chairman of one of the committees which reported the Sherman Anti-Trust Law declined to hazard an opinion as to what contracts were covered by the statute he favored, and put his refusal upon the ground that he did not know, and it was the business of the courts to find out.

Is this result, even if desirable and in large part legally attainable, practically possible? No man can tell until the attempt is made. National effort of every kind has in this country usually been regarded as a last resort, something only to be attempted when local failure was so evident that even jealousy could no longer deny the truth.

The present is a time as ripe as ever will be for endeavors to direct national power, not into new fields, but into portions of the old domain hitherto unsubdued. Perhaps, indeed, the present is a peculiarly appropriate time, for just now the cry of monopoly is so popular and the belief therein so widespread, that we have even been seriously told by a noted senator that no more than a hundred men control the business fate of this nation, and in proof thereof he has spread upon the long-suffering pages of the Congressional Record the names and corporate relations of that century of oppressors. Yet with such gravity does a people, which talks far too much of its own sense of humor, regard these statements, that no one has objected that of these tyrants a considerable proportion some time since departed this life; and that one despot is hateful in part because he is a trustee of the Young Men's Christian Association—of Chicago, to be sure.

If, therefore, one does not believe in the present existence of grinding monopoly, yet recognizes the existing demand for regulation, I have already tried to point out reasons for urging national control; but every honest believer in monopoly will in time perceive that centralization cannot be successfully fought by parishes, nor monopoly by confusion, any more than was union by disunion. The ultimate argument will be, and indeed now is, that wherever national union is possible national regulation is necessary, and national cooperation, if not union, is already among carriers of all kinds more than a dream, and its actuality is regarded as beneficent by an overwhelming majority of business men whose opinions are com-

mercially worth having; and these are the men who will more and more nationally unite to do that sort of business which requires national regulation. Will your personal influence be for efficiency in large matters and wholesome neglect in small? If so, I believe you will ultimately advocate national control.

RAILWAY REGULATION IN TEXAS

BY HON. JAMES L. SLAYDEN,
Member of Congress from Texas.

The adjustment of the relative rights of the individual citizen and of his own powerful creature, the corporation, is the latest and one of the most perplexing problems with which we have to deal. The treatment of the question is complicated by the necessity of keeping in mind the constitutional limitations of the federal government and the jealously guarded reserved powers of the states. Furthermore, there is no denying the fact that we approach the consideration of this latter phase of the question more or less influenced by the political school in which we have been trained, and for this reason there is much fog.

I believe, I cannot help believing, that in the governmental supervision of industry and corporations it is better to leave all the control possible with the states. The states are nearer the problem and the people. The scope of that power and the limits of its exercise are gradually being defined by the courts, both state and federal, and it gratifies me as an American citizen to be able to say that when the boundaries are once clearly defined by the higher courts there is prompt, cheerful and general acceptance of the decision.

But, Mr. Chairman, it does not become me, a layman, to hazard my small reputation in the discussion of such purely legal questions, and, acting on a hint given by one of your distinguished members, I shall confine myself to a brief review of the more important corporation legislation of my own state and some of the consequences that have come from it.

Texas Not Opposed to Corporations

The very name of Texas is an anathema in corporation circles, and most unjustly so. Few of the harsh critics of the mighty commonwealth that contributes not less than 175 million a year to the vast total of our exports have thought to inquire what Texas has done for the corporations. I now refer particularly to

the transportation lines that are at the same time the most useful, the most powerful and the most abused of all corporations. These critics invariably say that the corporations have made Texas and that Texans are not grateful. I do not think they are accurate in that statement. The corporations have certainly accommodated the state and have expedited its development, and we duly appreciate the service.

But, it is pertinent to inquire, what has Texas done for the railways, and on which side is the debt of gratitude? States now and then do great and generous things. It is possible to them because they are not organized for profit. But, except a few uncaptialized associations for charity, who knows of a corporation that exists or operates for any other purpose than gain?

The government of the State of Texas appreciated the importance of lines of communication, and in order to induce the construction of railways the legislature, in 1854, nine years after we came into the Union, passed an act giving to each corporation sixteen sections, or 10,240 acres of land for each mile of road constructed. In addition the state gave the right of way over the public domain to such roads as crossed it. Under this act there was surveyed out of the public domain and transferred in fee to the railways the stupendous amount of 34,179,055 acres, nearly equal in area to the great State of Kentucky, and more than three-fourths of the area of Pennsylvania. Please remember that these donations were not made at the time that William Penn became proprietary of the colony of Pennsylvania, when North America was a wilderness, lands worthless and continents were disposed of at the whim of a sovereign, but in the last fifty years, after Europe had already become so suffocated with people that thoughtful statesmen were seeking new lands to relieve the congestion. That great body of land had a distinct and an immediate value. It took no unusual business sagacity to see that it represented enormous wealth.

Texas had an area of 265,000 square miles, and a comparatively small population so scattered that the people were beyond many of the comforts of civilization. The statesmen of that day were controlled by a perfectly fair spirit. They knew that no railways could earn dividends at once in the ordinary operation of the lines, and these excessive subsidies were given with the perfectly clear

understanding on both sides that they were intended to cover the business risk of constructing in advance of actual necessity. They were meant to cover, and I do not doubt that they did fully cover, the period of waiting until the state had been settled and traffic developed.

That by some sort of juggling only comprehended in the higher financial circles this valuable asset was taken away from the share purchasers and transferred to the private accounts of a few people of an inner circle is, I suppose, also true. But Texas was not responsible for that, and so long as the forms of law were observed could not interfere nor, so far as I am advised, was interference ever invited. Great fortunes were made by the few who got the land and other valuable assets, and the buyers of the shares in the railways that were speculatively built ahead of the service demands, or the possibility of immediate profitable earnings, were left with certificates of ownership in property that was tremendously over-capitalized. When these innocent purchasers complained that they could get no return on their investment they were invited to turn their wrath loose on the state that had given so prodigally. Since then we have been the target for every ill-advised and unfortunate speculator in these shares.

I feel that in this connection I may ask you to consider the fact that the lands given by Texas to induce railway construction are, at their present assessed value, worth more than is every mile of road, including equipment, in the state at the present assessed value of the physical property of such corporations. This estimate of comparative values takes into consideration the thousands of miles of road that have been built since the state discontinued land donations.

Resources Available for Traffic

By the aid of railways and because a fertile soil and agreeable climate made it inevitable, the State of Texas has grown rapidly in population and marvelously in production. When it was joined to the Union by joint resolution in 1845, Texas had a population of about 150,000; to-day, speaking conservatively, it has about four and a quarter millions.

Out of each five bales of cotton produced in the whole world Texas supplies one. We market more cattle each year than any

state in the American Union. We have wheat and maize for export. We have a pine forest in East Texas—at least the lumber trusts have—about eighty miles wide and nearly three hundred miles long. Our granite quarries were lately described by Dr. Willard Hays, of the United States Geological Survey, as being “really inexhaustible.” The railways each year send out train loads of vegetables, melons, berries and fruits. To the production of rice we devote a larger area than that of some states. Our sugar and tobacco plantations have great and increasing importance. All these and more traffic-making industries are reached by the railways that were built by Texas and are now owned in New York.

Constitutional and Statutory Control

From time to time in the past we have enacted laws to regulate the operation of these lines of transportation and to fairly adjust charges for service, and it is absolutely certain that we will do so in the future. Every act may not have been wise, but certainly none were intended to be confiscatory. No citizen has wanted to cripple the railways, or to prevent a reasonable earning on the actual investment. The purpose of the laws is to insure justice and fair treatment.

Section 26 of Article 1 of the State Constitution declares that “perpetuities and monopolies shall never be allowed.”

Section 5 of Article 10 says that, “No railroad or other corporation, or the lessees, purchasers or managers of any railroad corporation, shall consolidate the stock, property or franchises of such corporation with, or lease or purchase the works or franchises of, or in any way control, any railroad corporation owning or having under its control a parallel or competing line; nor shall any officer of such railroad corporation act as an officer of any other railroad corporation owning or having the control of a parallel or competing line.”

Section 6 of Article 10 says: “No railroad company organized under the laws of this state shall consolidate by private or judicial sale or otherwise with any railroad company organization under the laws of any other state or of the United States.”

Several acts of our legislature have sought to make these constitutional limitations operative. Gentlemen whose services are con-

trolled by a large fee and whose consciences appear sometimes to be able to hide behind a small technicality will tell you that the corporations they represent have obeyed the spirit and the letter of these laws. But, Mr. Chairman, it is known of all men who have tried to keep themselves informed that the constitution, so far as it could be done, and the statutes thereunder made, have both been defied. It might reasonably be expected that this defiance of the solemn enactments of the people themselves would awaken a spirit of anger and reprisal. Yet I do not think it has done so to any appreciable degree.

A recent incident in the transportation history of the state will prove, I think, that it has not done so. The railway commission of Texas ordered that the passenger fare on the Houston and Texas Central Railway be reduced to two and one-half cents a mile. The enforcement of the order was enjoined in the federal court, and, while the case was pending, the people of the state, the people whom the order was intended to benefit, acting through organized bodies, and individually, declared that the time had not yet come in Texas when the railways could afford to carry passengers for two and one-half cents a mile, and the order was abandoned. These same people in large numbers petitioned the legislature, when that body thought to take the matter out of the hands of the railway commission, not to reduce the rate charged for the carriage of passengers.

The Railway Commission

In 1890, by vote of the people, the constitution of the state was amended and the legislature empowered to create the state railway commission. It has sometimes been described by its enemies as "a commission with teeth." It has the power to fix the rates for the carriage of goods and passengers. It has exercised that power in the main with justice and fairness. From time to time, as business developed and earnings seemed to justify it, railway rates have been reduced. Of course that reduced the earnings, but, on the other hand, it broke up the habit of giving rebates and that, in turn, increased earnings.

It has done another thing that entirely justifies its existence. It completely abolished the pernicious practice of discriminating between sections and therein has promoted a symmetrical develop-

ment of the state. Before the commission undertook the regulation of rates a few cities controlled the wholesale trade of the state. Now there are many small centers of trade from whence a profitable wholesale business is done. It has materially helped to a distribution of population, a thing that is very desirable in itself.

Under the terms of law the commission also has a sort of supervision of the physical property of these corporations, that is, it has the power and it is made the duty of the commissioners to see that traffic is not impeded nor the lives of passengers put in jeopardy by a failure to keep track and rolling stock up to a reasonable standard of efficiency. One would naturally think that this duty was of the highest privilege and that the roads themselves would hurry to execute an order, if reasonable, intended to protect the lives of their patrons. Strange to say such orders seem to be resisted with more vigor even than one to reduce the freight charges.

In a sensational manner one of the great roads has lately been put into the hands of a receiver, appointed by a federal court, and avowedly for the purpose of avoiding an order of the Texas railway commission. At the risk of exceeding the time allowed me for this speech I shall give you a brief history of this case.

Mr. O. B. Colquitt, of the Texas railroad commission, under date of April 4th, has furnished me with the following account of the circumstances that lead up to the placing of the International and Great Northern Railway in the hands of a receiver. For the sake of brevity I will merely use extracts from Mr. Colquitt's letter, hoping at some other time to publish it in full:

A few months ago the commission determined to make an inspection of the physical condition of the properties of several of the railways in the state. We had been receiving such numerous and general complaints in the danger to life and property transported over these lines that this induced us to take up this matter. Frequent and numerous wrecks of passenger and freight trains were reported to us, which resulted in the destruction of property to a greater or less extent, which had to be paid for by, and was a clear loss to, the railroad company. Perhaps the injuries, loss and damages resulting from wrecks in the last six months on the I. & G. N. R. R. have amounted to a very large sum of money.

The commission, after an inspection of the physical property, issued its order direct to the I. & G. N. R. R. Co., calling upon that corporation to improve its roadbed and put it in a more safe condition, and requiring of it

a reduction of their time card equal to the average loss of time shown by their train sheets for thirty days prior to the issuance of said order. The schedule of the trains was accordingly reduced in compliance with said order, and the railroad company, through its officers, notified us that they would comply with the terms of the commission's order as far as they were able to do so, the attorney for the road stating to the commission in person that it was believed that the commission's order in that respect requiring improvements was reasonable and just, and ought to be complied with. We had the assurances of the managing officers of the road that they would attempt to make a compliance with said order, and had begun to report to us that, in pursuance of same, improvements were being made.

The commission is not able to say why the proceedings in the federal court were taken, unless it was for the purpose of avoiding a compliance with its order requiring an improvement of its property, which the officers of the road admitted to be just and reasonable, in the interest of the property and to secure the safety of the traveling public.

The total average amount of bonds outstanding on the I. & G. N. R. R. Company's mileage at this time is \$22,465, and the stock is \$8,820, making a total of \$31,809 of stocks and bonds per mile.

The physical condition of the road certainly justified the railroad commission in issuing the order it did requiring its improvements.

The following statement, showing the number of wrecks that occurred on the International and Great Northern Railway for the period of time shown in the statement, appeared in the *Houston Post*, of February 29th:

Ninety-nine wrecks since June 30 is the record of the I. & G. N. R. R., which because the railroad commission of Texas ordered it to improve its trackage and lessen the danger to the lives of its patrons, was placed in the hands of a friendly receiver. There is not another railroad in all Texas which in eight months will average a fraction over twelve wrecks per month on a mileage of 1,163 miles. Mr. Gould, who holds the controlling interest in this railroad, charged that the Texas commission was responsible for placing the road in the hands of an attorney of another of his lines.

Upon request, Secretary McLean, of the railroad commission, to-day addressed the following communication to Commissioner O. B. Colquitt:

"In pursuance of your instructions, I enclose herewith copy of an order issued by the railroad commission of date September 17, 1907, and amended October 14, 1907, requiring railroad companies to report to the railroad commission of Texas all wrecks and causes thereof on the railroads in the state.

"Engineer Thompson, of the commission, reported on December 17, 1907, on the main line of the I. & G. N. R. R., between Longview and Laredo,

from June 30, 1907, to November 25, 1907, 27 wrecks. The commission has received reports since that date of 9 wrecks up to and including February 27, 1908, or a total of 36 wrecks since June 30, 1907.

"Engineer Thompson, in his report of February 1, 1908, on the Gulf Division of the I. & G. N. R. R., between Palestine and Houston, from June 30, 1907, to January 18, 1908, shows 15 wrecks, since which date 5 wrecks have occurred on this division and two between Houston and Galveston, making a total of 22 since June 30, 1907, between Palestine and Galveston.

"Engineer Thompson also lists in his report of February 4, 1908, 33 wrecks on the Fort Worth Division of the I. & G. N. R. R., Spring to Fort Worth, from June 30, 1907, to January 12, 1908, since this period 8 wrecks have been reported to the commission on this division, making a total of 41 accidents since June 30, 1907, or a grand total on the whole road of 99 wrecks from June 30, 1907, to date.

"The above information is from records filed in this office by the officers of the railroad company."

I regret to say that the story of the bad condition of the track, the rails, ties and ballast has not been exaggerated. It has been seen and admitted by officials of the road as well as by other citizens of the state. Travelers from the North and East who are accustomed to greater comfort and security than we enjoy have fairly shouted their condemnation of the policy of a great corporation that has shown so little regard for the safety of its patrons. Commissioner Colquitt tells me in his letter that high officials of the road have admitted to him that the order of the commission was proper in every way, that the improvements were urgently needed and the demands moderate.

I quote here another paragraph from the letter of Commissioner Colquitt:

As you perhaps already know, the I. & G. N. R. R. Company, under charters granted by the Texas Legislature in the early '70's, was authorized to construct a line from Longview to Laredo, and to consolidate with the Great Northern Railroad, which had a line from Houston to Palestine. By the terms of the legislative act permitting said consolidation and chartering said road, the State of Texas agreed to give to said railway company as bonuses state bonds to encourage the building of said road, amounting to \$10,000 per mile. Subsequently, by compromise, the I. & G. N. R. R. Company accepted twenty sections, or 12,800 acres of land per mile of road in lieu of the \$10,000 per mile of state bonds which the legislature originally pledged to said company.

Mr. Colquitt might have added that this road not only had a land subsidy of 12,800 acres per mile, but in addition, as a part of the compromise he refers to, enjoyed exemption from tax-paying for twenty-five years. The history of that transaction makes one of the most interesting chapters in the account of the prodigality of Texas, and has embalmed the memory of carpetbag government without entirely removing the odor.

In connection with the receivership transaction, Mr. Chairman, I will merely add that I am informed that the operating officials of the road—the personnel of which has lately changed—have persistently asked authority to spend a part of the earnings of the corporation in the improvement of the property.

State Direction of Corporations

What is known in Texas as “the stock and bond law,” passed in 1893, is an enactment of the twenty-third legislature, of which body I had the honor to be a member. At the time it did not have my complete approval, because I lived in the western part of the state, where we did not have enough railways, and I thought that it would interfere with their speculative building. But I do now endorse the law, absolutely and unreservedly. Here is an extract from that celebrated act:

Hereafter no bonds or other indebtedness shall be increased or issued or executed by any authority whatsoever, and secured by lien or mortgage on any railroad or part of railroad, or the franchises or property appurtenant or belonging thereto, over or above the reasonable value of said railroad property, provided, that in case of emergency, on conclusive proof shown by the company to the railroad commission that public interests or the preservation of the property demand it, the said commission may permit said bonds, together with the stock in the aggregate, to be executed to an amount not more than fifty per cent over the value of said property.

Surely no investor can object to that law. It merely seeks to guarantee to the buyer of shares in Texas corporations that they are not giving up good money for water. Certificates of stock owned in Texas companies organized since 1893, stand for money or some other thing of value put into the corporation. For some years there was much friction between the railways and the commission, but now there is rarely any trouble between them. Each has come to realize the importance and the usefulness of the

other, and thanks to the great man who was the first chairman of the Texas railway commission, a satisfactory *modus vivendi* has been reached that I hope will long continue.

Mr. Chairman, it is impossible in the time allowed me to give a complete survey of the corporation laws of Texas, even if I were fitted for the task. I shall not undertake to do so. I will only add that we have statutes that forbid "pools, trusts, monopolies and conspiracies in restraint of trade." It gratifies me to be able to tell you that, armed with such laws, we have grappled with a powerful corporation that is reputed elsewhere to have bought courts and controlled legislatures, and that we have expelled it from the state. Vigorous, honest, resourceful Texas will not tolerate such corporations nor their methods.

We appreciate the difficulty of the work that we have undertaken, but will not let up until they have all been scourged from the state. Texas still belongs to the people, and we have dedicated ourselves to the task of keeping it as an unmatched inheritance for their children.

We are not hostile to corporations. We welcome them under the right circumstances, and when their energies are exercised according to law. We are not only willing to have them earn a reasonable profit on their capital and labor expended, but we rejoice at their success, for we know that they cannot prosper so unless the people share their good fortune. Beyond that they ought not to try to go. Beyond that we will not permit them to go.

Because it has no part in the discussion of the scope and limits of governmental control over industry and corporate management, I shall forbear to tell you of the glories of my state. Besides, you would call me a dreamer and a boaster if I told you the simplest facts about Texas.

CORPORATION REGULATION BY STATE AND NATION

BY HON. HENRY M. HOYT,
Solicitor-General of the United States, Washington, D. C.

The topic is "The State and the Nation as Units of Control," with especial reference to the regulation of corporations. Just as in the field of natural law smaller units combine to form an organism which is not a mere aggregate of the inferior units but a new entity, and through an ascending series, organisms of differentiated function unite in a complete individual existence, so in municipal and conventional law, that is, the law of constitutions and statutes, there is no inconsistency between the nation as a unit of control and a state as a unit of control—between the ultimate unit and the separate unitary members. The state correlates and regulates the activities of persons, natural and artificial, and the functions of the municipal sub-divisions within her borders. The manifest tendency of the present time is for the general government so to correlate the states and to exercise its powers just as far as may be done under the constitution to that end.

There have been antagonisms in the past between the lesser sovereign units besides the great antagonism of the Civil War, which merged all former antagonisms and welded the state units and the national unit into an indestructible and perfect union. It seems strange now to recall, for instance, the sanguinary conflicts in this state between Pennamite and Yankee, which almost amounted to war between Connecticut and Pennsylvania, and yet did not involve the nascent federal power. No one would dream that in any like case now the national sovereignty would not instantly interpose between the contending forces. What a space has been traversed since the days when, very doubtfully, the Supreme Court determined boundary disputes between states, refusing to pass to other controversies between them! For now the court determines without doubt and with plenary jurisdiction that, for example, the United States, by its legislative and executive branches, cannot interpose in a conflict between two states over the irrigation use of the water of an interstate stream, but that the

federal supreme judicial power can interpose, and then proceeds to compose that conflict; determines that the City of Chicago must not pollute interstate waters to the injury of states and cities below, and that the air of the State of Georgia must not be poisoned by fumes from smelters in Tennessee.

The fear of Fisher Ames that the country would prove to be too divergent for homogeneity and unity, and too vast for patriotism, has turned out in the fullness of time to be a groundless fear. Along with that spectre has disappeared the spectre of states' rights. In these days that question has lost its abnormal character and undue emphasis, and we view it in the main with a just sense of proportion and without the old fear and suspicion that the sovereign power and bond between the states will swallow them all up. Yet all the guarantees on this subject must be preserved, and no one can be so foolish as to think that the states and their functions can be regarded as mere municipal sub-divisions of the United States and its powers, for to preserve the separate sovereignties and their relations to the safety, health and happiness of the people, and to obey all of the commands and prohibitions of the constitution on this subject is the very essence of our government.

It must always be remembered that under the constitution there are some activities for which the nation alone is competent, and others for which the states alone are competent. This separation must be preserved, however effectively and uniformly compared with the states, the federal power not limited by state lines may work, and however desirable it may be to advance faster than we are doing in economic and social development, and however the separate states may lag in correlating and unifying state action in matters important for common and equal progress everywhere. I state the general dividing line by quoting two famous passages, one from John Marshall's great judgment in *Gibbons v. Ogden*, the other from the speech of James Wilson, afterwards Justice Wilson, before the Pennsylvania Constitutional Convention of 1787.

John Marshall says:

The genius and character of the whole government seem to be that its action is to be applied to all the external concerns of the nation, and to those internal concerns which affect the states generally; but not to those which are completely within a particular state, which do not affect other states, and with which it is not necessary to interfere for the purpose of executing some of the general powers of the government.

Wilson's statement is:

Whatever object of government is confined in its operation and effects within the bounds of a particular state should be considered as belonging to the government of that state; whatever object of government *extends in its operation or effects beyond the bounds of a particular state* should be considered as belonging to the Government of the United States.

I shall not go into the distinctions and decisions along that delicate line where the federal power over commerce and the state power over matters of internal police meet and sometimes conflict. I proceed to the reasons for my personal conviction that, at least as to corporations, and their relations and activities, the federal regulation should go as far as under the constitution and law it may.

The inquiry is of course restricted to interstate and foreign commerce, and that is one limitation on us, the problem being to indicate why as matter of general policy in doubtful and close cases the leaning should be to national rather than state control. We must also lay out of view interesting current legislation and proposals for legislation on employers' liability and for compensation in any event for accidents (which change the substantive law in important respects regarding negligence, assumption of risk and related questions), because, on the one hand, the federal legislation just enacted is confined to one class of common carriers engaged in interstate commerce, that is to say, the railroads, and because, on the other hand, the proposed compensation laws apply to individuals or firms as well as corporate employers. We must contemplate now the broad general lines and have no time for details.

These are the propositions, then, that in modern and present industrial organization the volume and movement of business are vast and complex, the transactions more and more are carried on by corporations and by combinations which are a necessary and valuable part of effective economic development when duly controlled; that business not only means production and manufacture, but sale, exchange and distribution, that the distributing function is the object of all production, and that the interstate proportion of distribution far outweighs the intra-state share. In former days, for example, Maine lumber and Massachusetts shoes were mostly used at home, but now without any doubt a very much larger proportion of many commodities produced is consumed outside the

state of production than within it. All such interstate movements are part of those matters which are not completely within a particular state, and which do "affect other states,"—referring to the language of Marshall,—and which are objects of government extending in their operation and effects beyond the bounds of a particular state and which therefore should be considered as belonging to the government of the United States,—referring to Wilson's statement.

It is of the greatest concern to all the people of all the states that commercial rules and regulations shall be equal and uniform everywhere. One of the strongest arguments for the union under the constitution was the intolerable burden of conflicting and unequal laws affecting the interchange of commodities, and although the constitutional right of exact and equal justice to all citizens of the United States in any state has been well defined and established, the process of assimilation and harmony among the states is not yet complete. All the people of all the states and their national government must see to it that whatever a sovereign state's policy and power may be as to matters wholly within her borders, the effect of that policy, whether of action or inaction, must not be permitted to pass beyond her borders and injuriously affect other states and their citizens.

"Commerce" is a term of very broad meaning. The Supreme Court has been careful not to limit it by any general exclusions, and no one can now say to what interstate relations and activities it may not legitimately extend in the evolution of judicial doctrine dealing with the evolution of economic and industrial forces. I know that production has been strictly distinguished from commerce in a leading case which, indeed, seemed to present strong reasons for connecting them, because there there was a monopoly completing its ownership of all the plants in the market in order to control and monopolize a production which was necessarily intended only for commerce and in the main for interstate commerce. But a shifting of the emphasis can even now be observed, because the effect of a very recent decision (in the Danbury Hatters' Case) is to show that the production of articles within a state under contracts to be shipped to other states is to be regarded as so necessarily destined for interstate commerce as to come within the federal jurisdiction. The distinction between that case and the Knight case to which I

have just referred is a faint and delicate one, and yet it is plain that the latter decision tends to draw production within a state, designed *ab initio* for commerce among the states, into the category of interstate commerce.

Notwithstanding many abuses of the state power to incorporate, I can see no pressing and conclusive reason why the state should not continue to charter these artificial persons, which, as a general rule, must have a *locus* within some state. They are chartered to do all kinds of business including interstate business, and in any case cannot escape the federal power in the latter field. But the way should open to them, when their only business is interstate, to obtain federal incorporation, if they so elect, subject to state jurisdiction over the principal *locus*, if that is within a state rather than in a territory under the exclusive jurisdiction of the United States, and over any property located within a state. If the business is partly interstate only, then the way should be open to securing a federal license to authorize and regulate and protect that portion of the business. The conclusions to be emphasized are that by whomsoever the interstate business is done, whether by a natural or artificial person, and in whatever way the authority to transact that business is conferred, whether with or without federal incorporation or license, the regulation of such business is a federal matter solely, and the question of the power to regulate is to be determined ultimately by the federal courts. That is the first conclusion, and the second conclusion, it seems to me, is that the true policy of the general government—meaning the policy proper for its three branches, executive, legislative and judicial—is to extend and maintain the federal control over corporate activities in interstate commerce as far as the broadest contents and construction of that term will permit, consistently with the constitution and with reason.

NO COMBINATION WITHOUT REGULATION

BY TALCOTT WILLIAMS, LL.D.,
Philadelphia.

To the succinct statement of the law by Judge Hough, it is unnecessary to add, and it is impossible to controvert. His two broad propositions sum past law and future action—constitutional power exists to discharge effectively any duty entrusted to the Federal Government, and the duty of regulating commerce with foreign nations and between the states will in the end bring the government to the supervision of all the instruments of that commerce, including corporations engaged in this commerce, because without this the first duty would not be fully and effectively discharged. A railroad corporation is regulated by the Federal Government, primarily not because it is engaged in interstate commerce, but because the regulation of interstate commerce is the national duty of Congress. It is not the relation of the railroad to this commerce which brings into action the Federal Government; but the relation of the Federal Government to interstate commerce which brings the railroad under federal regulation. Any other corporation which enters interstate commerce to an extent which renders its regulation necessary to the regulation of interstate commerce will for the same reason come under the scope and sweep of federal power.

In the early stages of the judicial application of this principle, it was inevitable that attention should be concentrated on the extent to which a corporation, railroad or other, entered into interstate commerce; but as federal regulation of interstate commerce grows and extends, becomes more minute and pervasive, the question shifts to the constitutional necessity of the regulation of a particular corporation or a particular scrutiny of the area under consideration in order to make complete the regulation of interstate commerce by Congress. The courts in delimiting the boundaries of federal power always begin by asking whether it is necessary to regulate this person, office, act, corporation or function; but they always end by asking is it necessary to a complete regulation to

include this person, office, act, corporation or function. Their earlier decisions by a natural evolution exclude. Their later decisions include. Their attention is early drawn to the new object on which federal power in its first exercises impinges. Their later attention is concentrated on the central subject of the exercise of federal power, and while the area of this power cannot and is not changed by the courts as they define its boundaries, much which early seemed to lie under state sovereignty and was under state supervision, passes later under an active federal jurisdiction, whose authority always existed but whose boundaries can only appear as it is exercised. This normal process and growth in the exercise—not at all in the immutable substance of federal power—has taken place in many fields. Witness the manner in which the exercise of that share of the police power needed for the protection of the mails and the protection of the community through which the mails pass has grown in its statutory expression and judicial interpretation. Offenses were early left to the punishment of state law. States claimed and sometimes exercised the right to protect the social and municipal rights of the community by a local censorship of the mails. The Federal Government, by statute and decision, more sharply defined the boundaries of its power. They extended over much early and loosely left to the state. At length, in the lottery cases, the Federal Government suppresses by a criminal statute the manufacture of lottery tickets within a state because these tickets could be used only by entering interstate commerce, and the federal discharge of the duty of carrying the mails could only be fully and freely exercised by protecting the mails from injuring the moral standards and well-being of the community. It was a good lawyer and sound thinker, the late J. Randolph Tucker, who as attorney-general of Virginia, held that the state could exclude seditious and inflammatory publications from the federal mails, and the half century from his opinion, which no one can read without appreciating its force, to Associate Justice Brewer's decision in the lottery ticket cases, marks, not a change in federal power, constitutionally unaltered in the interval, but in the development in exercise and interpretation of the power conferred on Congress to establish a post office and post roads.

A precisely similar change, in which fragmentary statutes and decisions intent on the reasons for excluding objects apparently com-

ing within the range of federal statutes, episodal and non-systematic, are succeeded by systematic legislation and embracing inclusive decisions, has taken place in pilotage, immigration and quarantine. It is impending in the relation forests bear to navigable streams. Forest, source, stream, bed and water are each and all indubitably under the sovereignty of the state. Prove that the navigation of the stream cannot be fully and freely regulated without their control and all these things, ancillary to the stream, will pass under federal ownership, jurisdiction and regulation, as a tract of the soil of the sovereign State of Pennsylvania, one of the original thirteen, never under federal control or ownership, could be condemned for national uses, when it had been consecrated to national needs by becoming the site of the Battle of Gettysburg.

This broad and continuous evolution in federal statute and decision which has gone on for a century and a quarter, which always follows the same law, takes the same course and reaches the same terminus and conclusion in the end, finding a boundary in a federal constitutional purpose, instead of a purpose in the boundaries of state power, is a safer guide and more sure than narrow deductions from individual cases. It is not that the supreme court changes its position. The position from which the court views the subject changes with the march of events and the stream of constitutional practice which brawled over obstacles in its early torrent flow, broadens and widens into the serene stream which carries unchallenged the exercise of federal power as it reaches the common ocean over which only this jurisdiction extends.

We may be certain that what has been will be, and in the end, the power to regulate commerce between states (so long left dubious and fragmentary) will in due time include under its regulation the entire body of corporate existence whose presence so perturbs the course of this commerce as to perturb federal regulation. When this is clear, the federal regulation of such corporations will come because the court will be considering not the share of these corporations in such commerce large or small, but an effective regulation by the central government and the steps needed for this. In the end the ox-hide of federal power is always cut into strips when the permanent boundary comes to be made.

This deep and assured conviction that Congress would finally legislate upon the great corporations and combinations, I found

pervaded the conference on trusts called at Chicago in the last week of October by the National Civic Federation, to my connection with which I owe my presence on this platform,¹ attending it as I did as a delegate from this state appointed by the governor. Possessing no substantive powers and in none of the customary and organic senses of the word representative, it included delegates appointed by the chief executive of most of the states in the Union interested in the subject, state officers and the counsel of the federal government engaged in the regulation of railroads and the prosecution of trusts, the counsel of many of the larger railroads and corporations, and delegates from the trade combinations, like the National Druggists' Association and labor unions, including the American Federation of Labor and various farmers' organizations. Such a body represents without being representative. Such a body, having no legislative responsibility and no party responsibility, met for opinion and not for action, is, as every journalist comes to know, a better gauge of public sentiment at any given moment than bodies of real power and actual importance. Having to act, these latter and their members must be careful of expression; but a conference like that which met in Chicago reflects and mirrors with great accuracy the average and widespread opinion of the day, before it crystallizes into law, when all can see the record and expression of authoritative public opinion finally expressed in statutory form.

No one could be a member of this body, meet its membership, share its deliberations and share in the work of securing an unanimous expression of opinion from its diverse membership, without securing an invaluable impression of floating opinion. Such a conference, if its members come to a common opinion, expresses exactly and accurately what people would like to have, before the bulky, cumbrous and official action of national parties and the national legislature has acted and enacted law.

The Chicago Conference on Combinations and Trusts of the National Civic Federation made perfectly clear what I believe is the settled purpose and resolution of the American people, that there shall be no combination without regulation. The decision of the Supreme Court on the boycott in the Danbury hat case has put this popular resolution into judicial form, and the support and approval

¹This paper is a revision and enlargement of an address delivered at the Annual Meeting of the Academy, April 11, 1908.—EDITOR.

given this decision and the widespread opposition to any proposed legislation modifying or seeming to modify this decision shows how near it is to public conviction. Whether in capital or labor, whether in railroads or industrial corporations, whether in distributing agencies, trade associations like the druggists' or farmers' associations, combination without regulation will not be permitted by the American people. Combination, to any size, any extent and any purpose not prohibited by law, the American will accept. The mere size of anything never daunts him. He is used to big things. But combination which is not regulated he will not permit. The real choice is not whether there shall be regulation or not; but whether this regulation shall be by and through a criminal statute, the Sherman Anti-Trust Act of 1890, or through administrative regulation and supervision. The whole body of combinations, railroad and industrial, of labor and of farmer, of wholesaler and retailer, have no choice between regulation or not; but between the drastic operation of the criminal courts through this federal law and similar state statutes or reports to and supervision by orderly civil machinery. One or the other there will be, because combination without regulation our people and public will not permit.

In English jurisprudence, a directly opposite movement has been in progress. In this country, twenty-three years ago the New York Court of Appeals by its decision on the Sugar Trust, broke up a system begun for the combination and consolidation of corporations in Ohio a score of years earlier. This decision has been accepted as law in almost every state. Legislation followed under the attention directed to the subject by a decision which left no course open but the corporation directly owning the consolidated properties in any new combination. The "holding corporation" remained a convenient screen until its standing was left in doubt by the decision of the Supreme Court in the Northern Securities case. In interstate commerce it remains secure to-day, only on evidence showing that it was not intended to end any competition. A similar conclusion would probably be reached by most state courts of last resort. The act of 1890, the Sherman Anti-Trust Act, is but one of a network of legislation covering all our states. Of varying character these laws and the decisions and prosecutions over them have extended, as already shown, to every branch of trade. Little of what the common law permitted in combination in restraint of

trade is left. How much even this was, the wise man will not too strictly define. What the cankerworm of federal law and its interpretation and administration has not destroyed, the caterpillar in the branching tree of state jurisdiction has eaten. If a combination in restraint of trade lives at peace in this country, it is not without apprehension, and those called to a close acquaintance with the managers and the counsel of our great combinations in industry and transportation, know best their manifold anxiety. I speak with knowledge when I record that in the past five years, the great and most conspicuous corporations in both fields, in and out of interstate commerce, have been solemnly advised that past decisions, state and federal, have only to be pushed to their full legitimate logical conclusion to challenge the security of any corporate combination from the United States Steel Corporation and the Pennsylvania Railroad down. No such "badge of sufferance" has ever been imposed by law on capital in modern history since the Jew was baited from York to Venice, by Plantagenet and Doge alike. Not in our history has there been on any subject of mingled moral and economic, social and legal relations such general unanimous and universal exercise of the law-making, judicial and law-enforcing power since the legislation from 1820 to 1860 on chattel slavery, and this was divided into two opposing purposes—North and South. The national resolution that there shall be no combination without regulation enters every state, controls federal laws, decisions and prosecutions for eighteen years.

In the very same period England has been relieving combinations of every order, even from the regulation familiar in the past under the common law. The sweeping doctrine laid down in the case of the *Mogul S. S. Co. vs. McGregor* (1892, A. C. 45 and 23 Q. B. D. 598), at the same time as the passage of the Sherman Act, controls English courts. When a court of last resort can, as in this case, reach the conclusion that a group of common carriers trading on the high seas can agree to refuse all freight from a shipper who sends any goods by a ship carrying freight at less than the rates agreed upon by the combination, any agreement in restraint of trade is possible. The reasoning in this decision distinctly reaches the conclusion that in trade, agreements cannot be divided and discriminated. All must be accepted alike as long as the end is directed to an increase and promotion of trade. As long as the trade itself is

justifiable, any combination to increase traffic is permissible. In dealing with Trade Unions, the English courts had reached a similar view in *Allen vs. Flood* (1898, A. C. 1), practically establishing the rule that neither the officers nor the members, neither the society nor its funds were responsible for acts injurious to a third party. As soon as this was modified in *Quinn vs. Leatham*, House of Lords, August 6, 1901, with reference to crimes on an appeal from an Irish jurisdiction and for civil damages by the Taff Vale case (*Taff Vale Railway Company vs. Amalgamated Society of Railway servants et al.*), in 1901, a steady agitation followed, which has ended in legislation, both political parties agreeing, which the House of Lords accepted, its law lords vainly protesting.

On most subjects, as every one knows, the broad currents of English and American law, flowing from the same fountains, flow in separate channels but to the same purpose and intent. On most points of principles the courts agree and statutory assimilation is more frequent and constant than most realize. Each system is constantly borrowing from the other. But in the past twenty-five years, in which this precise issue has loomed large on the horizon of modern trade, English courts and legislation have reduced or removed altogether common law restrictions and American courts and legislation have increased them. In England, any trade or labor combination is to-day permissible, and the decisions in regard to common carriers by no means enforce impartiality to all, unless required by statute. In this country, the suppression of combination grows more and more drastic. As every one knows, combinations accepted without challenge thirty years ago are to-day not only penal by statute, but the courts in construing these statutes have matched mediæval tribunals in dealing with the forestaller and regrater.

It is a matter of common knowledge, that in the period of development in railroads, industries and distribution after the Civil War, from 1865 to 1881, when the first agitation began, railroads, without challenge, granted rebates, discriminated in rates, agreed on rate sheets and pooled their receipts, manufacturers combined on prices and divided territory, wholesalers and retailers united to preserve the margin between wholesale and retail prices and refused goods to those who broke scheduled prices. These were all openly and publicly done for a score of years. These acts and this policy

were accepted by the public. The records of more than one of our great corporations will show that counsel advised that these practices were legal. At least one railroad, a party to the notorious contract on oil freights with the Southern Improvement Company, was advised by its solicitor on that contract that it had a right to sell its transportation at different rates to different customers as freely "as a grocer sells sugar at different prices." The whole range of methods now condemned and prosecuted was accepted without interference by courts or legislatures for years. One reason for the extreme bitterness among capitalists over sixty years of age is that they find themselves pilloried and prosecuted for acts once the accepted path to railroad profits and business success. The prospect that the United States would reach the conclusion and conviction on all these issues, to-day established in English law was, up to thirty years ago, stronger in this country than in England.

If the two lands have divided on this vital social issue, the reasons rest on their social fundamental organization. Combination has been accepted without regulation in England because the entire English social system is a series of closed groups. The peerage itself constitutes one such body enjoying special legal privileges descending by the same law as realty inheritance. The church as by law established enjoys exclusive non-competitive privileges unknown to the religious life of Americans. Public education, even when supported by taxation, passes under the control of religious bodies in England, associated for this purpose and jealously excluding interference to an extent alien to all our conceptions of the common school, whose essence is its freedom from any control by individual combination. The English union enjoys a power, excludes non-union competition and is accepted by the public and the law as a combination having rights of monopoly control to an extent unknown in the United States.

Combinations, without regulation, special monopolies of privileges, legislative, ecclesiastical, in education, in industry and in labor, exist at many points in the English social organization. This is none the less true because in certain specific instances, as the American Tobacco Trust, the retailers' privileges were defended by the public. The retailer is himself organized in a closed group in England, socially and economically. His discounts are protected, where here, in a series of decisions, the retailer's right to protec-

tion from cut-rate competition and the wholesaler's power and policy to furnish this protection have been swept aside by federal and state courts.

English society is stratified and cellular, full of "ductless glands," if I may borrow a physiological simile whose play and working are of the utmost value to the body politic. What is royalty itself but just such a ductless gland developed and inherited through a long period, surviving all changes and discharging a special function indispensable to the healthy working of the British organism.

Our American social organization knows none of these things. It has no place in all its system for any closed group. It is jealous of them. Any combination which assumes to be superior to regulation arouses an instant antagonism. Having traveled even farther than England along the path of organized combination, with the prescient, prophetic, penetrating wisdom of a democracy, the American people suddenly halted a little over a score of years ago. Agitation and investigation laid bare the tendencies towards combination. Through all its agencies, state and federal, and through every power and function known to these twin agencies, legislative, executive and judicial, there has been a sudden reversal of earlier acquiescence and instead prosecutions, which ran to the boundary of persecution, have asserted the national instinct and determination that there should be no combination without regulation.

It is the fashion to treat the Sherman Anti-Trust Act of 1890 as if it were sporadic, passed without knowledge or consciousness of its scope and sweep. If this means that in 1890 no one expected to see railroad and industrial corporations which had been growing in power and might for twenty-five years, since the Civil War, brought under an absolute control which has shocked European and English financial opinion by its relentless penalties, this is perfectly true; but if any one imagines that this act did not respond to and express a national purpose as wide, deep and persistent as any in our history, he misreads the record. If the Sherman act had been a mere accident, running counter to the deeper national purpose, the courts would have minimized it, as our courts have so often dealt with the legislative vagary of the day; but as all know the crucial decisions on this and like laws by courts of last resort, at Washington and elsewhere, have had the precise quality that the law (up to the decision carrying a step farther the regulation or prohibition of competition destroying combination), had been such as to leave

the court open to go either way. Uniformly, the corporation view has lost. This common action in both fields of our complex system and through the triple instrumentalities of each, never takes place and never can take place, unless something more fundamental than opinion or even law is at work—a primal national instinct.

When the National Civic Federation called its first conference on trusts in 1903, it was impossible to secure from that gathering any common action. No resolutions were passed, because the general national purpose was not yet clear. The conference which met last October at Chicago was precisely such a body as might have been expected to break up again without result. It was heterogeneous, it had no common purpose or standard, and at heart half of its members had strong personal interests, through their connection with railroads, trusts, unions, granges, commercial associations and federal and state governments. If this body reached a common conclusion, it is because the popular will is now clear as to the regulation of combination. The only error was in not seeing how universal and without exceptions their purpose was. It was generally accepted, and the committee on resolutions included men in each category mentioned, that railroad combinations could be permitted under the supervision of the Interstate Commerce Commission, that the great industrial corporations, "Trusts," must be classified, and such as affected interstate commerce so as to affect its federal regulation must pass under the supervision of the Federal Bureau of Corporations, that commercial associations, maintaining wholesale and retail discounts, must be given the common law rights vouchsafed them in the past, before the Sherman and state acts treated the protection of discounts as a restraint of trade, and that unions and granges, since they were not organized for profit, should be permitted combination in interstate commerce without regulation and supervision.

This briefly summarizes the declaration of principles adopted by the Chicago conference of 1907; but as differences existed on details, it was agreed to urge on Congress a commission to report after the presidential election, as action before such a contest could not be reasonably accepted. The result in Congress has shown that not even the pressure of President Roosevelt's administration could secure the passage of any legislation at a session from which every member of the house looked forward to his approaching election.

A commission might have been secured and would have educated the public. As it is, the measure introduced by Representative Hepburn followed the outlines of the Chicago program as drawn in a bill by the committee on legislation of the National Civic Federation, remodeled by the Federal Bureau of Corporations, considerably increasing its power, with a section intended to protect the unions and granges, one combined to protect the price of labor and the other to protect the price of farm products, from the possible consequences of the Supreme Court decision in the Danbury Hat case, though not on the labor boycott in interstate commerce.

But this section served the remarkable purpose of showing that all concerned had failed to understand how inexorable was the national determination that there should be no combination without regulation. If there has been anything taken for granted in discussion and conference on this subject by congressmen and economists, by the learned counsel of great corporations and the heads of unions, by newspapers and by federal officials from President Roosevelt down, it has been that legislation permitting combination to railroads and trusts, under adequate supervision, would pass all the easier if it relieved unions and granges from their anxieties under the Sherman act.

Nothing of the kind. The instant it became clear that the ambiguous section already noted above might free unions from the Sherman act, the measure which held it was halted. When the Supreme Court in the boycott decision held a union to exactly the same responsibility as a trust under the Sherman act, the House of Representatives could not, like the House of Commons, be brought to free the labor organization from responsibility for its acts. Representatives were overwhelmed with protests which made them, from Speaker Cannon down, clear that the law must stand as the Supreme Court left it. What every one forgot was that, while the American Federation of Labor has 2,000,000 members, there are 1,400,000 separate stores and establishments in trade, and each one of these has a stronger voting power than a single member of a union. "Organized labor" is really outvoted by commercial establishments. The practical result is that federal law, so far as it affects combinations of labor or of capital through injunctions or prosecutions, remains unchanged, though alteration was urged together by the joint efforts of labor and of capital. Small establishments, ex-

pressing and urging the national conviction that there must be no combination, not even of labor or of the farmer, without regulation, prevented all legislation, whether asked by railroad, trust, commercial association, union or grange.

Legislation is, however, inevitable. The choice to-day for combinations is no longer after the past eighteen years, since the Sherman act, between regulation or no regulation, but between regulation by criminal prosecution and regulation by administrative supervision. The first is in full operation. Every decision widens its scope. Every prosecution and conviction advertises and enforces its perils to all combinations. Ten years ago, the great corporations were opposing federal supervision. Twenty years ago, the decision in the Knight Sugar cases seemed likely to render the extension of federal power over manufacturing corporations impracticable and unconstitutional. To-day, many lawyers advising trusts would, I know, be glad if that decision were out of the way and their charge safely at anchor in the haven of federal regulation. As for the counsel of the government, the plea of Mr. Hoyt, Solicitor of the Department of Justice, sufficiently shows the belief of official legal advisers that the Supreme Court, if a path of retreat, not too patent, be opened, will silently withdraw from its position in Knight's case and lay down the wiser doctrine, that where the operations of a corporation require regulation in order efficiently to regulate interstate commerce, it must pass under Federal regulation so far as the efficient discharge of the constitutional power to regulate commerce between the states renders this necessary.

An industrial corporation, using the term in its broadest sense, of companies engaged in production, manufacture, mining or distribution, comes within the purview of federal jurisdiction through its relation to interstate commerce. This relation may arise in two ways, the corporation may be directly engaged in this commerce, or its operation may be on a scale sufficiently large to render the regulation of interstate commerce ineffectual, unless the corporation itself be under supervision. On this latter principle the federal power has already been extended to fields in themselves wholly outside of federal jurisdiction. A navigable river, like the Ohio, bed and stream, is under the sovereignty of the states it divides or through which it flows. The federal government has no such interest in either as justifies control over them, as the Supreme

Court has just held in the Colorado River case; but the regulation of interstate commerce has extended a plenary federal jurisdiction over bed and stream, as far as it is necessary to improve the navigation by condemning private property, protecting work from trespass or deciding at what price a private enterprise engaged in improving navigation can part with its title. President Monroe challenged this right in his familiar message, whose chief weight and value to-day is the measure its law and logic offers of the complete reversal by the national courts, legislature and executive of his position. Perpetually one returns at all points to the principle that whatever the federal government needs for the complete exercise of a granted power, it can take and hold and its courts, in a constantly enlarging jurisdiction, decide the boundaries of this power and the mode under which it arises.

Federal power is clear where an industrial corporation is engaged in interstate commerce; but in the application of this power to a corporation, the issue at once arises as to whether the exercise of jurisdiction is limited to its interstate commerce alone, or can be extended over the operation of the corporation as a whole. If the former cannot be exercised without the latter, the latter will follow. In the measure drawn by the National Civic Federation, it was assumed that federal regulation would extend only to interstate business. Federal law and prosecution have for eighteen years infringed upon or threatened this traffic of industrial corporations through a penal statute, the act of 1890. The principle therefore adopted in the measure proposed was of the nature of an act of provisional indemnity. If these corporations made certain reports and submitted their contracts for approval to the Bureau of Corporations, they were to be free from the operation of the Sherman Anti-Trust Act. If they failed, either in their reports or in securing the approval of this bureau, the provisions of the act revived. While an unusual proceeding in American law, the group of decisions dealing with amnesty at the close of the Civil War leaves no reasonable doubt that a discretion as to the enforcement of a penal statute, even when, as in the case of treason, it applies to a constitutional crime, can be vested by Congress in the executive officer whom it selects by appropriate legislation to exercise this discretion. But while the principle is constitutional, it has not yet commended itself either to Congress or the newspapers. The discretionary suspen-

sion of a criminal statute on certain conditions, however constitutional and however desirable in itself, is not customary.

Three classes of corporations or associations were embraced in this provision for suspending the Sherman Anti-Trust Act, railroads whose contracts were to go for approval to the Interstate Commerce Commission, corporations in trade, industrial or distributive, whose contracts were to be passed upon by the Bureau of Corporations, and labor unions and granger associations combining to maintain prices of farm products, whose contracts were to be submitted to no one. To the reference of railroad contracts to the Interstate Commerce Commission no objection was made in Congress or out, though Western dread of "pooling" has prevented any favorable action. To the approval of contracts by industrial and trading corporations or associations, the wide and general protest was made, already voiced on this platform by Mr. John Sharp Williams. To the freedom from all scrutiny of contracts affecting interstate commerce made by unions, there was an opposition no one anticipated. Instead of aiding the passage of the measure, this provision seriously increased opposition by awakening protests already touched upon.

Strictly legal in character, this framework of regulation, efficient, adequate and constitutional, satisfactory to the interests involved, protecting the public, revised and approved by President Roosevelt and his administration, still had to the journalistic eye the fatal lack that to the average man it seemed a vulgar barter of immunity to combined capital or labor, which combination, but for its provisions, would be open to criminal prosecution. This is an unfair and ignorant view; but it has to be reckoned with. The *nulli justitiam vendimus* of Magna Charta lies deep in the conscience of the English-speaking folk, and while its common and conscious opinion will accept amnesty for a political crime like treason, men gag at immunity from a criminal statute, directed against what is universally held by the average American to be morally indefensible and an offense against the higher social order—a combination in restraint of trade. Next winter, this measure comes again before Congress after the clarifying effect of a Presidential canvass. Public opinion will be better known, the insensible education of public men and of newspapers will have progressed another stage and what can and cannot be done have become more

clear. But whatever be the final outcome of the first measure which has the joint approval of capital, labor and the federal administration ever presented to solve the problem of regulating corporate combinations in capital, in farm production and labor, in and out of interstate commerce, on the borderland between state and federal jurisdiction, the bill presented by the National Civic Federation is the first mediating word on this most difficult crux of our system. It blunts no criminal weapon now possessed by the federal power, it asks of the industrial corporations chartered by states enough supervision and regulation to protect the public, but no more than the corporations are ready to concede, and it raises no dubious constitutional issue. The sole question and the chief opposition has turned upon the treatment of the labor unions, and this is solely because at one point, to wit, in contracts made by unions, it permits combination without regulation. This, I firmly believe, the American people will as little sanction for labor as for capital.

The measure of the National Civic Federation deals with the regulation of trusts on the side of and through their interstate business. This is the constitutional vinculum by which is joined federal power and the producing or manufacturing corporation, and beyond this the bill does not go. But the real cause and reason why these corporations need federal regulation is not because they are in interstate trade, but because their share in interstate commerce is so large, pervading and perturbing, that federal regulation of commerce between the states is futile and ineffectual unless they are regulated. There are tens of thousands of corporations engaged in commerce between the states which no one proposes to regulate. The measure just analyzed in theory and as a mere matter of bill-drawing, would apply to every association or corporation which sends a newspaper or ships a can of milk across a state line. In practice, no one expects that any but the large corporations, with special interests to protect, will avail themselves of its provisions. The obstacle and objection to all general measures bringing under federal regulation all corporations in interstate commerce rests on the grave inconvenience of requiring reports from the great array of small corporations, imposing an intolerable burden both on them and on the federal authority charged with their regulation, when all that is really required by public policy is the regulation of the greater corporation. The practical reason for regulating any great

industrial corporation is its disproportionate share of interstate commerce. The constitutional reason attaches to any share any corporation has in such trade, however small. No classification has yet been proposed which solves this difficulty. If the size of capital be made a basis for the regulation of a corporation, this provision can be readily evaded and its constitutional character is open to grave question. The proposal has been made by Mr. William J. Bryan, among others, that the share by any corporation of the total product of the country turned out by an industrial corporation ("trust") shall decide whether it pass under federal regulation or remain free.

As hitherto proposed, this is a mere arbitrary measure (Mr. Bryan's proposition was twenty-five per cent), for which the judicial mind has small respect in deciding the varying boundaries of constitutional jurisdiction. Classification, however, as a means and method of applying constitutional authority, the courts of last resort have always respected and accepted. This classification must not be arbitrary and evidently directed to secure a predetermined end, as the Supreme Court of Ohio held when the legislature endeavored to "classify" Cincinnati, Cleveland and Toledo on the exact basis of their population in 1900, down to a few score. If, however, the classification be natural and normal, growing out of the subject matter, if it be impartially applied without the earmarks of biased purpose—to which the courts are often blind when not forced upon them—and if a sliding scale, capable of numerical application in the future by adequate and proper authority, legislative, administrative or judicial, be provided, our courts have repeatedly accepted and generally with a favorable understanding, such classification as both a convenient and constitutional method of drawing the boundaries of jurisdiction and action.

None will question, if one corporation produced and controlled all of a great industry in the national area, so that the regulation of transportation in that industry consisted solely of the consideration of its contracts and operations, that a plea for the right of the federal authority to regulate that corporation would rest on a far firmer basis than if this product were divided between thousands of corporations, no one of which dominated the trade or was in a position wholly to deprive any railroad system of a lucrative freight by billing all its shipments over other lines. Were any one industry

wholly controlled by one corporation, it would, as every one is aware, be practically impossible to prevent rebates, rates, public in form and secret in fact, special advantages which would increase profits, inordinately low charges which stifle the cost of transportation to less highly organized industries and special privileges for the monopoly which would swiftly and secretly suppress competition. To how great an extent this is already true of the Standard Oil, recent trials have judicially established.

Given a number of leading industries, so integrated, each under a single control and all united by a community of interest, secured by the presence of members of allied financial groups on their boards of direction, and the maintenance of equal, equitable and public railroad charges would be impracticable, unless the regulating authority could also regulate, investigate and lay bare the operations of these corporations. Control of the railroads alone would not suffice to discharge the duties and responsibilities of the federal government in regulating commerce between the states. Nor would it be difficult to establish this proposition by legal evidence, cumulative and convincing.

Were Congress, acting on such evidence, to draw, as has been proposed, the arbitrary line of twenty-five per cent of the product of the country as justifying the federal regulation of a trust, it might be neither easy to establish that this was the right line nor to deal with the evasion due to keeping product just below the point at which federal regulation of industrial corporations would begin. But if Congress were to provide for classifying corporations, by dividing them between those manufacturing or producing or vending—let us say seventy-five, fifty, twenty-five and ten per cent of the total national product, graduating the severity of regulation, scrutiny, publicity and the contracts sanctioned by appropriate authority, so that publicity was greatest and the burden of regulation—as to equal prices, for instance, in all parts of the country for standard articles—heaviest on the corporation producing seventy-five per cent, this regulation decreasing as the share in the total product diminished, it is plain that the constitutional plea for such a classification would be strengthened. The courts might well hold on such legislation that Congress had a right, as a matter of public policy, to decide on the necessity for regulating industrial corporations, not directly engaged in transportation, in order effi-

ciently, adequately and equitably to discharge its duty of regulating commerce between the states, that Congress had the power to classify these corporations for this purpose in proportion as they rendered such regulation difficult by their larger share in the total product, and that this classification and the legislation provided under it could justly and constitutionally be adjusted so as to aid competition and discourage the perturbing size of these monopolies.

The machinery for such action and such a policy has already come into existence. The Census Bureau follows year by year the national product in each industry. Were the share enjoyed by each corporation or combination certified to the Bureau of Corporations, already collecting reports and having power to investigate, trusts would be classified yearly. Once classified, the Interstate Commerce Commission could be empowered to carry out the special regulation imposed on each class. The classification might admit of some evasion in passing from class to class, but all corporations large enough to derange the federal regulation of rates for transportation would be included and the multitude of lesser corporations would escape wholly the onerous regulation imposed on larger monopolies and semi-monopolies. Such a regulation would rest on the constitutional right to regulate commerce between the states. It would divide and discriminate—as is now done in the improvement of navigable and non-navigable streams—between corporations which require regulation and those which do not, because one related and the other did not to the regulation of commerce. The classification would be based on a census bureau enumeration or record of total national product and the share controlled by a combination, an enumeration which would act automatically and through a measure capable of verification, that is, of being established as any other issue of fact can be, if disputed, by a legal process. From year to year, this classification would be determined by the records and inquiry of the Bureau of Corporations. The classification of a corporation once established, it would pass under the same authority, as to its prices, contracts and operations, as the railroads, whose freight rates, its unregulated activities so certainly and injuriously derange and deflect from open, equal and just charges to all for the same transportation.

Such a system of regulation applied to all the various combinations which impinge upon the various agencies, railroad and other,

which carry on transportation between the states, would apply to each such agency as required. Each combination or corporation, whether it was mining, manufacturing or distributing, whether it represented capital or toil, the integration of an industry, the organization of labor, the maintenance of prices for agricultural products or of the margin between wholesale and retail prices, would under this plan and system be subject to a constitutional control which would leave no combination without regulation, whenever that combination was large enough to require regulation. The great multitude of lesser combinations, the multitude of lesser agreements in restraint of trade could be left to the regulation of the ordinary laws of trade and the statutory regulation of the states under the police power.

But the great combinations which to-day constitute a portent upon the national horizon would automatically pass under federal regulation. This would itself be part of that broad principle and working under our national system, which from the beginning of the American commonwealth has determined that there shall be no combination without regulation, such regulation being adapted in each case to the conditions of combined social forces, local, state and federal, each finding its appropriate governance. If the "trust" to-day awakens alarm, it is because it offers combination without regulation. Furnish this and alarm over its size will disappear. Leave it without this and the open injustice of unregulated combination will breed a challenge to the established order.

[NOTE.—While this paper is passing through the press, the National Republican Convention has made the Hepburn Bill a party measure by incorporating its principles in the Republican platform. The use of the criminal powers of the Sherman Act of 1890 in order to secure assent to federal supervision is made party policy; but the convention wholly refused to except trade unions from this proposed regulation. This affords a striking example, by a political body seeking votes, of the refusal to permit combination without regulation, even when this action would estrange many voters.]

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PART FIVE

Appendix

REPORT OF THE ANNUAL MEETING COMMITTEE

TWELFTH ANNUAL MEETING OF THE American Academy of Political and Social Science

Philadelphia, April 10 and 11, 1908.

The four sessions of the Twelfth Annual Meeting of the American Academy of Political and Social Science attracted the largest number of out-of-town members in the history of the Academy's sessions. The topic was of such timely interest that the discussions were followed with the deepest interest throughout the country.

In this volume all the leading papers are printed in full, and it is, therefore, unnecessary for your Committee to do more than express to those who participated in the meeting its sincere appreciation for their valuable co-operation.

The thanks of the Academy are also due to the members of the Committee on Program, the local Reception Committee, of which Mr. Samuel F. Houston was Chairman; and to the standing Reception Committee, of which Mrs. Charles Custis Harrison is Chairman. We desire to make our acknowledgment to the University Club and the Manufacturers' Club, both of Philadelphia, for the courtesies which they extended to visiting members of the Academy.

We also wish to express our obligation to the Provost of the University of Pennsylvania and to Mrs. Harrison for their generous hospitality in extending the courtesies of their home to the guests of the Academy, and to Major Joseph G. Rosengarten, whose entertainment of the speakers on Saturday evening, April 11th, constituted one of the most delightful social occasions of the annual meeting. The Academy is also under deep obligations to those who contributed to the Special Annual Meeting Fund, which the Academy must raise in order to defray the expenses of the annual meeting.

In addition to the formal papers contained in the proceedings, we beg to append herewith the briefer remarks made by the presiding officers at the various sessions.

At the session of Friday afternoon, April 10th, Mr. Marcus M. Marks, President of the National Association of Clothiers, presided. The address of Mr. Marks on "The Effects of Anti-Trust Legislation on Business" will be found in the proceedings.

At the session of Friday evening, April tenth, the Honorable Charles P. Neill, Commissioner of Labor, Washington, D. C., presided, and, in introducing Judge Grosscup, spoke as follows:

"Ladies and Gentlemen: The subject of this evening's discussion is the relation of the government and the public to corporate development, a subject which has ceased to be academic, and is one of vital concern and of very direct interest. We are fortunate in having this evening, for our discussion, gentlemen who are very closely related to the problem itself and to the subjects of our discussion. The discussion will be opened by a paper on "The Government's Relation to Corporate Construction and Management."

The introductory remarks of the Honorable Martin A. Knapp, Chairman Interstate Commerce Commission, Washington, D. C., who presided at the session of Saturday afternoon, April eleventh, are printed as an article in the proceedings.

At the session of Saturday evening, April eleventh, the presiding officer was the Honorable James R. Garfield, Secretary of the Interior, Washington, D. C. In introducing Judge Hough, Secretary Garfield said:

"Ladies and Gentlemen: It has given me a great deal of pleasure to accept the invitation of the Academy to be present and to take part in this evening's discussion.

"Discussions of this character, conducted by such associations, cannot but be of the highest benefit to the people of the country in getting clear ideas on the great political and economic questions, and the interchange of thought between men from different sections of the country, holding opposite political beliefs, and engaged in different kinds of business, must contribute enormously to the elucidation of these problems which are before us to-day. This is particularly true of questions of an industrial character which have been presented by the Academy at this annual session.

"The questions before us to-night, those affecting the state and nation as units of control of corporations, are most vital and of the keenest interest at this time. It is not merely a revival of the question of the state or nation as to rights; not at all. There are, of course, rights involved, but I think in a greater degree we should consider the duties and obligations resting on the state and nation in respect to these industrial problems. It is certainly elementary that there is no right which any of us enjoy that is not based on the fulfilment of a duty first placed upon our shoulders, and we cannot secure those rights unless we are willing to assume the duties put upon our shoulders and fairly and honestly perform those duties. Therefore in any discussion which has anything to do with the place where the control should lie as between state and nation, we should look upon the duties and obligations of those two jurisdictions, rather than any rights either may claim."

At the close of Mr. Williams's speech, Secretary Garfield said:

"In regard to the increase of federal power referred to by Mr. Williams, our nation was the youth created by the Constitution of our forefathers. That Constitution had in it the germ of government which has since then developed. Increase comes from development of the germ within, as much

as by the addition from without, and therefore, we may have an increase of power without the addition of new power, by development along lines which are wholly within the original body, and this, I think, is very well suggested by what Judge Hough has said, to the effect that the power to control must be co-extensive with the subject sought to be controlled; hence, if we have agencies which are beyond the control, beyond the jurisdiction of the state, then necessarily it follows that control over these agencies, if effective (and I do not mean that it exists merely because it is needed), must come within the control of the greatest sovereign, the United States, because its power is co-extensive with the agencies at work."

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4

Child Labor and Social Progress

PROCEEDINGS OF THE FOURTH
ANNUAL MEETING OF THE
NATIONAL CHILD LABOR COMMITTEE

PHILADELPHIA
The American Academy of Political and Social Science

**SUPPLEMENT TO
THE ANNALS OF THE AMERICAN ACADEMY OF POLITICAL
AND SOCIAL SCIENCE
JULY, 1908**

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**PROCEEDINGS OF THE FOURTH ANNUAL MEETING
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NATIONAL CHILD LABOR COMMITTEE**

**PHILADELPHIA
THE AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE
1908**

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CHILD LABOR AND SOCIAL PROGRESS

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THE BASIS OF THE ANTI-CHILD LABOR MOVEMENT IN THE IDEA OF AMERICAN CIVILIZATION

BY FELIX ADLER, PH. D.,
Chairman of the National Child Labor Committee.

The National Committee holds at this time its first public conference in the Southern States. Let me, therefore, as its chairman, succinctly indicate its scope and purpose. The first point to bear in mind is, that the committee does not propose to supplant, but to supplement, the state and local committees; it does not intrude on the province of these committees. It stands ready to give aid and advice, when invited to do so. It has, as a matter of fact, stimulated the establishment of state and local organizations, where previously such organizations had not existed. Again, it is conducting important investigations, which would be beyond the power of the local committees.

The National Committee is a kind of steering committee. It keeps steadily in view the fact that our country is passing more and more from agricultural into industrial conditions; and it seeks to prevent the recurrence of the evils incidental to incipient industrialism.

I have said that the Child Labor Committee is national, not only in name but in scope and purpose. I make this assertion because all sections of our country are represented in it, because it deals with a problem common to almost all the states, but chiefly because this Committee is attempting to eradicate from among our people a practice which is uncongenial to American civilization. My object, in the brief time at my disposal, will be to indicate the deeper foundations on which the attempt to abolish child labor rests. That foundation is, in a word, the inconsistency of child labor with Americanism, with the ideas by which American civilization is characterized. American civilization is characterized by the spirit of fair play. It is not fair for the strong to take advantage of the weak. It is not fair for the adult to put the heavy burdens which he ought to bear on the weak shoulders of a child.

American civilization is characterized by compassionateness to-

ward human suffering. Nowhere in the world, when that chord is touched, is the response so prompt. It does not comport with American civilization to behold without indignant pity the spectacle of the sufferings of little children. I mean the sufferings caused by forced and unnatural extension of the hours of wakefulness; the sufferings caused by deprivation of time and opportunity for play; the sufferings caused by the physical, mental, and moral deterioration which is the well-nigh inevitable consequence of premature toil.

But American civilization is characterized at bottom by a still more distinctive trait, and upon this I wish to dwell with all the emphasis at my command. Every civilization has, so to speak, its keynote, its *leit motif*, its dominant principle. Practices which are tolerable, even justifiable, in one civilization, are intolerable and unjustifiable in another, because in the one case the dominant principle permits and agrees with such practices, and in the other case the dominant principle does not. Thus, for instance, polygamy is perfectly tolerable in Mohammedan countries, because polygamy is in harmony with the dominant principle of Mohammedanism. The type of civilization worked out under the Koran is founded on the worship of power, God himself being regarded primarily as the omnipotent, and hence it has been natural for the follower of Islam to assert the rightful preeminence of the more powerful of the two sexes, and to maintain a form of the marriage relation altogether based on the supposed superiority of man and inferiority of woman. But polygamy in Utah is intolerable and unjustifiable; not for abstract reasons, but because it is uncongenial to American civilization, for American civilization has for its dominant principle the moral equality of all human beings, both of men as compared with men, and of woman as compared with man.

And on precisely the same grounds we assert that child labor is intolerable and unjustifiable, namely, because it is contradictory to the dominant principle, the fundamental idea of the civilization which is being developed on this continent. That dominant principle is the moral equality of all human beings, the right of each human being to freely develop and even when necessary to be assisted in developing whatever gifts of mind, whatever talent, whatever potentialities Nature has given him. To cut off development, therefore, from the American point of view, is the

great sin. To impose heavy weights which are bound to check physical growth, and by preventing education in the years when the intellect and the character are formative, to stunt mental and moral growth, that is the unpardonable offense.

Lincoln said in an address which he delivered in 1859: "There are more mines above the earth's surface than below it." What he meant was, that the mental and moral nature of the mass of men is a precious mine. We shall find plenty of gold in it if only we look for it. To bring this gold to the surface, is to contribute in the truest sense to the national welfare and well being.

I think that those who commit the offense against the child are hypnotized by greed; I think that it is the duty of the community to deliver them from such obsession, and to bring home to them the sense of their responsibility. No one should lay profane hands upon a sacred thing, and what is more sacred than the life of a child, and the hope for humanity that lies in every child? In spoiling the child, we spoil the generation that is to come after us. In laying the burden of premature labor upon the young, we deprive the Republic of the citizenship to which it is entitled.

Before the jury of the American people we plead for the child, and before you as a part of that jury. Need we have any apprehension as to the verdict you will return? Those of you who are strong men will side with us against taking advantage of the weak. Those of you who are parents, imagining for a moment your own children as taking the place of those who are at work in the mills, will cry out with horror and indignation at the practice, and will join us in the effort to save the little ones. Those of you who continue to believe in the great principles to which this country is dedicated, the equality of men and the progress of mankind, will join us in condemning a system that is fraught with inequality and incompatible with progress. All of you, I make bold to believe, will unite with us in saying that the shield of the state must be held over the child to protect it, and that the iniquity of child labor must cease, wherever in this broad land it now exists. The genius of American civilization condemns it. Americans, mindful of their heritage, will unite to abolish it.

THE NEW VIEW OF THE CHILD

BY EDWARD T. DEVINE, PH.D.,

Secretary, Charity Organization Society, and Professor of Social Economy,
Columbia University, New York City.

On Wednesday night of this week, I happened to sit at dinner by the side of a gentleman who lives in Brooklyn, and raises cotton in the Panhandle of Texas. We were discussing unemployment and the strange perversity of immigrants and others, which leads them to stay in the cities when there is crying need for their labor on farms and plantations. He waxed eloquent over the splendid opportunities afforded in his section of Texas. Negroes are not allowed there, and the field is clear for the native or the imported white; wages are good at cotton picking—as high this year as a dollar and a quarter a hundred—but even at sixty or seventy-five cents he assured me a man with a family could easily in two or three years rise from the position of a laborer to that of a tenant or landowner. And this is the explanation—that a man's wealth, that is to say, his income, depends on the number of children he has. I asked him how early the children began to work, and he said without hesitation, "At six and younger. I recall," he said, "one boy of six who earned 50 cents a day the season through." He had described the way the bag is slung about the neck and dragged on the ground behind so that the picker may use both hands. I inquired how big a boy had to be before he was strong enough to drag one of these bags, and he said, "Well, you see we make the bag to fit the child. I then inquired about the schools, pointing out that educational facilities were among the things immigrants like to know about when they are to be sent to a new country, and his answer was: "It is a pretty rough country. School is kept during the months when there is nothing to do in the fields. We let them go in planting time and cultivating time and picking time, and there are short terms in January and in July and August when there is no work to be done." "I admit," he said, "that is not ideal, but then there is a saying down there that ignorance and cotton naturally go together."

Finally I asked him, "And what is the effect of cotton picking throughout the season on the health and strength and growth of the children?" A thoughtful look came into his face (I honestly believe he had never thought about it before), and he said, "Of course it—it destroys their vitality." That he was himself an employer of child labor on a large scale, right down to babyhood, in a seasonal occupation, at piece wages, had never, so far as I could see, come home to him. He had apparently no compunctions of conscience. He was violating no law. He explained the whole matter and dismissed it from his mind by saying, mistakenly as it happens, "You see, there is no child labor law in Texas as there is in other states." It happens that there is a child labor law in Texas for mines, distilleries and factories, although none—and none in most of the states—except in the form of a compulsory education law—which applies to agricultural pursuits.

I have related this conversation, not as an evidence of child labor conditions in Texas—for anything that I know to the contrary, it may all be an unsubstantial fairy tale—but as an illustration, entirely outside the range of an immediate controversy, and involving—if it be true—that combination of Southern resources and Northern capital, which may be called typical, an illustration of the discredited view of the child against which, now in one form and now in another, this Committee and its allied forces, East and West, South and North, in state and in nation, are waging warfare.

You will notice that it is the bag and not the school term that is made to fit the child. The family income depends, not on the efficiency of the adult but on the number of children. The child is the center of the economic world and not the center of the educational and domestic world, and that means that the child is for exploitation and profit and not for nurture and protection. The six-year-old—think of it in terms of your own six-, eight-, ten-, twelve-year-old, if you have one—the six-year-old earns fifty cents a day and his vitality is destroyed. Cotton and ignorance are linked together—not naturally, as my friend said, but most unnaturally, and the industry which is otherwise the pride of the Southland and of America, is blighted not only in the mill but from the hour of its planting, joining the sweated industries of the northern cities and the glass works of the northern towns as an active cause of race degeneracy

and race suicide. Though it may be reprehensible for the race to perish for lack of births, it is a more shameful thing to destroy the vitality, to dwarf the minds, to refuse the natural and necessary protection of childhood to the children who are born into the world.

The other view—the new view of the child, if you like—has not been revealed by any single miraculous illumination. Would that some apostle on the way to Damascus could have a glorious vision of the divinity indwelling in the soul and body of the unspoiled child. But it is not so that social workers are guided to the formulation of their new ideals. Piecemeal and fragmentary is the process by which we put together the outlines of the society which we would create; doubtful and arduous the advance towards it. Social progress, as Meredith says, is spiral on a flat—like nothing so much as the path of the inebriate or the worm. The new view of anything, if it is a true and useful view, is likely to be but a synthesis, or a new interpretation, of old ideas; a convincing statement which we may all comprehend, of ideas long held here and there by a few people of extraordinary insight. It is not necessary, as Socrates thought, that philosophers become kings, or kings philosophers, but only that the speculations of the philosopher be put into language which kings may understand. We, therefore, we citizens and kings of America, not setting ourselves up as philosophers, in describing our new view of the child may justly appropriate some of the fragmentary older new views which have been gained from time to time.

Normal Birth

May I begin by urging the right of the conceived child in the mother's womb, to be born. When the Children's Bureau, for which this Committee is working, is established in Washington, it may well begin its labors by an investigation of sterility, abortions and still-births. If it be found, as our leading medical authority on this subject has estimated, that forty-five per cent of our unfruitful marriages are so, not because of deliberate refusal to bear children, but because of sterility resulting from venereal diseases; if it be found, as other specialists believe, that there is an intimate relation between the prevalence of such diseases among boys—the results of which are carried into later married life—and the employment

of boys in mills and factories and mines, then the connection of this painful subject and our child labor program will have been established. I refer to it here, however, not as bearing specifically on child labor legislation, but as a part of that broader conception of our obligation towards childhood, upon which this and many other movements depend.

The new view, the religious view, the social view, the physiological view, the rational view of the child from every standpoint, is that the right to birth itself must not be abridged. If disease interferes with it, then disease must be overcome. If deliberate crime interferes with it, then crime must be punished. If unscrupulous medical skill interferes with it, that medical practice must be brought more completely under professional ban and criminal prosecution. If ignorance and vicious indulgence interfere with it, then education at an early age by parents and teachers and physicians and others must take the place of our conspiracy of silence. If the employment of women in factories interferes with it, then that employment must be curtailed.

Physical Protection

The right to be well-born is followed, in the new view of the child, by the right to grow up. We are doing better than our forefathers in this respect. Two hundred years ago in London, at the beginning of the eighteenth century, three-quarters of all the children that were born died before the completion of their fifth year. Decade after decade that percentage has been pushed down until now it is something like twenty-five instead of seventy-five per cent.

Even now, in 1900, in the registration area of the United States, the death rate for all children in their first year is 165 in the thousand. That means, if I understand it, that 16.5 per cent. of all children born in the cities and more populous states, die before they are a year old. Milk poisoning, ignorance of mothers as to how to feed and care for their children, inability to nurse them, either for physical or for economic reasons, lack of necessary facilities for surgical and medical treatment, and lack of knowledge in the rank and file of the medical profession concerning the diagnosis and treatment of infantile disorders, are among the causes for this high mortality among infants. The greatest ad-

vances of medical science have been in this field, and the substantial reduction in the death rate of many communities is due to the saving of the lives of babies more than to reduction at any later age. It is the new view, the social view, that this process should be carried farther, and that those who are born shall be permitted not only to survive, but to become physically healthy and strong. The Children's Bureau, which is to be for investigation and publicity only, not for administration, will deal with that subject also.

The Federal Government should study continuously the problems of illegitimacy, infant mortality, illiteracy, feeble-mindedness, orphanage, child dependence, and child labor—just as it studies, and properly studies, the soils, the forests, the fisheries, and the crops.

Happiness

The third element in the new view of the child is that he has a right to be happy, even in school. Pestalozzi and Froebel helped us to think that out. Jane Addams, at one of the earlier annual meetings of this Committee, gave expression to the idea that one day we shall be ashamed of our present arguments for the prohibition of child labor, that it is physically destructive and educationally disastrous—although these seem like reasonably adequate arguments to start with—and shall recognize that the joyousness of childhood, the glorious fullness of enjoyment for which children are by nature adapted, and by their Creator intended, is in itself a worthy end of legislation and social concern. Bronson Alcott, of whom it is said that his greatest contribution to American literature was his daughter, says that a happy childhood is the prelude to a ripe manhood. It is a far cry from a childhood in mine or factory to that happy childhood, and to put it down as an elementary right may seem sentimental. If so, I name instead a protected childhood as absolutely essential, and if you grant me a naturally protected, a sheltered childhood, I will take the risk of happiness. For it is no artificial, hothouse-forced development of something which you and I might call happiness that we seek, but the spontaneous activity and growth of a protected, unexploited childhood. If you ask me what is the period of such protection, I cannot tell. Certainly ten years is not the limit, nor twelve, nor fourteen. I once asked a very wise and sensible man who had been

making some suggestions about my own boy's education, how long he expected me to support the boy. I had begun to be a little disturbed by the time it would take to carry out his program. "Well," he said, "if you can't provide for him until he is thirty-five, you are not fit to have a son." I am not in favor of raising the age limit to thirty-five, but neither do I favor leaving the years from ten to twelve, or to eighteen or to twenty entirely without protection.

Useful Education

It is a part of this new view, fourth, that the child has a right to become a useful member of society. This implies industrial—or stating it more broadly—vocational education. It supports the suggestion made by Mr. Noyes, in one of the publications of the National Child Labor Committee, that the school day might well be made longer, with greater variety in curriculum; and that the work which we deny, and rightly deny, in the factory for profit, may be demanded in the school for an hour or two or more daily for education and training. The disingenuous arguments as to the educational value of specialized long-continued factory labor may be tested by the willingness of those who make them to introduce genuinely educational employment with the element of profit eliminated, into the school curriculum, where alone it belongs. Industrial efficiency is diminished and destroyed and not increased by child labor.

The Right to Progress

There is one final element in the new view of the child, the right to inherit the past more and more fully, the right to begin farther and farther along, the right not only to begin where the parent began—even that is denied when through destroying the strength and retarding the education of children, race degeneracy sets in—the right which we now assert is the right not only to be protected against degeneracy, but the right to progress. It is the new view of the child, the American view, that the child is worthy of the parent's sacrifice; that he must mount upon our shoulders and climb higher; that not only in accumulated possessions, but also in mastery over the physical universe, in spiritual attainment, in the power to serve his fellowmen and to glorify God, he shall rise above his father's level. It is not a new idea.

Hector, on the plains of Troy, had a notion that men might say of Astyanax that he was a far better man than his father, and perhaps they did, or would have done so had Hector lived to protect and rear him. In a given instance the plan may fail, but the plan itself is significant for the father and for the child. The American child is not unknown in text books and essays and fiction. He has been pictured as smart, precocious, disrespectful, and offensive. The child of the rich and preoccupied American, and of the vain and indulgent American, has sharpened the pencil of the caricaturist of every land. Kipling, in "Captains Courageous," plucked such a child from the ocean and put him at the work on a fishing dory on the banks of Newfoundland, which his regeneration required. The neglected and spoiled child of foolish indulgence, and the neglected and spoiled child of avaricious poverty, tend to develop similar or equally lamentable traits. In neither case is there recognition of these fundamental elements in what we have called the new view of the child—normal birth, physical protection, joyous infancy, useful education and an ever fuller inheritance of the accumulated riches of civilization.

SOCIAL COST OF ACCIDENT, IGNORANCE AND EXHAUSTION

BY PROF. CHARLES R. HENDERSON,
University of Chicago.

Very properly the National Child Labor Committee is compelling the public to fix attention on the child laborer, especially the little wage-earner in the mine, mill and factory. In doing this we are led to consider all the factors which affect the child for weal or woe, not only in the work-place but elsewhere. You have asked me to discuss the "Social Cost of Accident, Ignorance and Exhaustion," no doubt with reference to causes and also with a view to prevention, protection, insurance and instruction.

A representative of the new Southwest urges upon the people of Texas the establishment of "a cotton mill in the cotton field." A vigorous, far-seeing, progressive community will not be content to ship cheap raw material to older countries and bring it back as finished goods at high prices for transportation, labor and profits. But cotton mills in the cotton fields mean an industrial revolution in the South similar in all essential respects to that through which England, Germany and some of our own older states have passed on their way from rural to urban industries. In this revolution the child will suffer unless protected by law.

Antecedents of the Exploited Child

The studies of Niceforo, Warner, Oppenheim, and by boards of education in Switzerland, England, America and elsewhere, have made one point clear—the delinquent, dependent, neglected child is physically and intellectually inferior, on the average, to the normal school child. This established fact compels us to go back to influences which affect the development of the very poor child before birth and in the years of infancy.

In great measure we are dealing with the results of generations of social neglect. Our ancestors have permitted multitudes of human

beings to grow up under the blinding and perverting influence of a *laissez faire* philosophy, a theory made to excuse, justify and glorify neglect. The more conscientious and logical they were who held this theory the worse the results. Consequently we are called upon to deal with the offspring of the ignorant, underpaid, neglected, often vicious and depraved, alcoholic, narcotized, neurotic ancestors.

The conditions of motherhood and infancy affect the child's chances in life. Whether born crippled or normal, the children of the poor, ignorant and neglected, begin again a round of deficient nutrition and care. The factory girl, without instruction and training, becomes a mother under serious difficulties, and if her infants survive, they enter the struggle for existence too early and with a heavy handicap. The mother's history is written in deeper, darker lines in the baby. During her childhood, deprived of play and school, she failed to accumulate physiological reserves; during her early adolescence she was ill-fed, poorly nourished, ill-taught, overworked. Before the birth of her infant, while it was directly and completely dependent on her for life and growth, she had not good food, and her energies were depleted by toil. During the months before weaning time she was unfit for her function as nurse. These conditions explain the frightful rate of infant mortality among the very poor and ignorant, and the prevalence of disease and death in later years, with the diminished industrial efficiency of adult wage earners.

The fated circle begins again with each new generation of weaklings. You will not find all this in the statistics of "factory labor," but must seek the information elsewhere. The condition of the mother *enceinte* affects her offspring. Insufficient nutrition and excessive toil have for their results either the death of the embryo, or premature birth, and in any case constitutional feebleness of the child results, later showing itself in diminished resistance to disease or in defect in some organ.

In Belgium, in the period 1890-1900, 44.9 in 1,000 births were dead born. Among working people, in industrial centers, the ratio is high. In 1900 in Prussia, out of 1,275,712 births, 39,993 were dead born; in Switzerland in a total of 97,695 births, 3,379 were dead born; in France, of 827,297 births, 39,246 were dead born. Unless sickness insurance is organized to provide support during the latter part of pregnancy and after confinement of the mother, it

is impossible to enforce a law forbidding very poor women at their time of need to work for wages.¹

Mr. Louis D. Brandeis, in his brief before the Supreme Court of the United States, in October, 1907, in the case *Curt Muller vs. State of Oregon*, has collected a mass of expert testimony from physicians, factory inspectors and statisticians, proving beyond reasonable ground for doubt that too prolonged terms of work are destructive of the health of working women and ruinous to their offspring; and in February, 1908, the Supreme Court of the United States heeded this testimony and it became a part of the legal opinion of our highest judicial body. It is now good law that the courts are bound to recognize the verdict of science and not merely abide by outworn precedents; that judges can look forward to consequences, as well as backward to prejudices based on ignorance.²

The surroundings of the child in school from the sixth to the fourteenth year are frequently part cause of the subsequent exhaustion of energy and industrial efficiency. The school ought to be, can be, and sometimes is, a training in physical development. A child properly educated, in the widest and best sense of that term, does grow in stature, weight and force. Every school should be under the control of medical authorities who should have the children weighed, measured and tested by modern instruments of precision so as to make physical development certain. As a matter of

¹The French association for the legal protection of workpeople adopted this resolution January 29, 1903:

"That in establishments supervised by factory inspectors the work of pregnant women, or those recently confined, should be regulated as follows: 1. Women should not be permitted to work during the two months preceding confinement. 2. Pregnant women should be permitted to ask for cessation of work before their approaching confinement without breaking the work contract. 3. Administrative regulations should determine the different kinds of work which are to be interdicted or permitted only on certain conditions to pregnant women or those recently confined.

"The strict application of a law relating to obligatory rest of pregnant women or those recently confined can be made only when the loss of wages is compensated by relief at the charge of the state or local funds, in the absence of a general system of industrial insurance guaranteeing legal indemnities."

²The language and doctrine of the decision of the Supreme Court (*Curt Muller vs. State of Oregon*) apply with all their weight to the laws protecting children. Justice Brown wrote: "That woman's physical structure and the performance of maternal functions place her at a disadvantage in the struggle for subsistence is obvious. This is especially true when the burdens of motherhood are upon her. Even when they are not, by abundant testimony of the medical fraternity, continuance for a long time on her feet at work, repeating this from day to day, tends to injurious effects upon the body, and as healthy mothers are essential to vigorous offspring, the physical well-being of women becomes an object of public interest and care in order to preserve the strength and vigor of the race."

fact, these scientific tests are rarely applied, and merely intellectual instruction is given, with waning power, to children whose health is undermined in the process.

In our crowded cities the playgrounds for outdoor exercise and play are inadequate, the play itself is left to the untaught children, the school house is often closely packed, the desks and mode of instruction deform the children, the air is vitiated, the light is uncertain, the physical care of the pupils not supervised by competent medical and dental examiners.

There is relatively too great reliance on books and writing; too little directed and educational play and creative activity. Competitive examinations, frequent and severe, are conducted in such fashion as to over-excite the nervous system and induce sleeplessness, fear and exhaustion. Frequently the children come to school inadequately fed and clothed; they have slept ill in the noisy, stifling tenement dwelling; they may have worked long outside the school hours and so are weary and sleepy. School life goads them to self-destruction.

Situation of the Child and Youth as a Wage-Earner

We still lack a thorough statistical study, with intensive local investigations, but, thanks to the federal government and the Charities and Commons organization, we shall soon have a more reliable presentation of the facts. We already have ample medical information for a fair judgment of the effects of premature factory labor, and the experience of older countries has value for us.

It is certain that exhaustion by fatigue is to be charged with a very great number of occupational accidents. Children and youth placed in positions which require maturity of muscles, nerves and judgment are necessarily heedless and awkward. They endanger themselves and others, especially when they are weary. The records of accidents by age and by hour of the day are significant in this connection.³

Premature child labor in mine, mill and factory increases exposure to some occupational diseases. Certain poisons, dust, vapors and germs may be resisted or tolerated by vigorous men which are fatal to young persons and women. This fact has led to the prohibition of work by such persons under the conditions cited.

³Querton, *L'Augmentation du Rendement*, etc., p. 172.

Social Value of the Laborer

In order to realize the cost of unsuitable occupation and neglect of education, we must try to set before us, at least approximately, the value to society of a healthy, intelligent, open-minded, well-fed worker. It is not possible to do this with great accuracy, for the range of individual variation is very great. Rochard⁴ estimates the economic value of a man at 1,097 fr.—about \$219 per year. Mr. Frederick L. Hoffman⁵ defines the “economic gain to society” to be “the value of the product over and above wages, cost of supervision, cost of material and miscellaneous expenses, necessarily incurred to carry on any particular process of manufacture or industry.” He thinks that the average annual economic gain may be safely placed at about \$300, so that if the child of fifteen has a prospect of working up to the age of sixty-five his “future economic value” for the active and productive fifty years will be \$15,000. At twenty-five this future economic value will be \$13,695.

But is this economic, material estimate, calculated in price, the only form of social value we can consider? We need not be sentimentalists to insist that the military and political position of our nation among the nations of the earth is due largely to the number of vigorous, alert and intelligent children brought to productive and reproductive years. How can we adequately set before the country the priceless value of a host of young citizens? Can we utterly ignore the social value of this multitude of hopeful youth as held in the hearts of the mothers and fathers of our land? Because we cannot weigh and measure the love of parents, brothers and sisters, shall we therefore not count affection among the most precious possessions of our people? When a man has to choose between money and the life of his child he welcomes bankruptcy and is glad to make the offering.

Social Cost of Accident and Exhaustion

Let us approach the social cost of accident, exhaustion and ignorance,—the causes of morbidity and mortality,—upon the basis of this estimate of the value of a life at fifteen years. What is it we fling away when we take a normal child, rob it of intelligence, stunt its faculties, kill it prematurely, cut off twenty or more years

⁴*La Valeur économique de la vie humaine*, Paris, 1885.

⁵*Annals of American Academy*, May, 1906.

of its existence, or make it a weakling, a dependent on society for years of its existence in almshouse or prison?

The economic loss is measured by the economic social value of a healthy human being once brought to maturity and educated for usefulness. Death destroys the accumulated energy of youth at a stroke; but feebleness and degeneration burden the community with partial or entire support of a weakling or cripple. Therefore to find out the total social cost we must calculate as nearly as possible the loss by death, the loss by sickness and incapacity, the positive burden of support of paupers and the enormous waste and cost of caring for criminals driven to revolt.⁶ The community has already expended much on a child before it is ten years of age,—in government protection, playgrounds, schools, sanitation. Is it economic to permit private and individual greed to use up this investment?⁷

Consider the social loss of exploited childhood from the standpoint of capitalists as a permanent class, men who have investments for life and seek sources of income for their descendants to

⁶Many attempts have been made by sanitarians to exhibit and illustrate these social wastes. In Germany in 1879-1888 an average of 26.90 in 1,000 died; in 1889-1898, only 23.97; a gain of 2.93 per 1,000; 150,000 less deaths in a population of 52,000,000. The economic gain was 130,000,000 marks (\$32,600,000) annually. But for every death there are thirty-four cases of sickness, twenty days' lost time each; 150,000 multiplied by 34 by 20 equals 1,000,000,000 days of sickness, or 300,000,000 marks (\$75,000,000) saved.

Dr. John Simon estimates for England the economic gain by reduction of mortality at 125,000 persons a year; \$800 per head; \$60,000,000 saved in days of sickness; in all \$160,000,000. In 1897 in Germany about eight and a half millions of persons were insured against sickness, one-sixth of all population. To each insured, 0.36 cases of illness; 6.18 days lost; 14.45 marks (\$3.61) cost; total cost, 120,000,000 marks (\$30,000,000); and also as much loss of wages. If sickness could be reduced by hygienic and sanitary improvement by 5 per cent then 6,000,000 marks (\$1,500,000) would be saved plus wages of same amount; in all \$3,000,000.

⁷The productivity of capital depends on several factors: 1. On scientific mastery of the laws of natural forces and materials; 2. On the invention and use of the most perfect tools, machines and technical processes; 3. On the perfection of the organization and discipline of the factory, mill or shop; 4. On the selection of the raw material and arrangement of the plan of manufacture; 5. On the health, energy, intelligence and hearty co-operation of the workmen. It is this last factor which with us is too much neglected, the most important of all.

The supply of energy in the worker is furnished by the oxydation of the elements of food. This supply varies with the sufficiency of quantity, the "balance of rations," the digestibility and appetizing quality of food, and the condition of the worker.

The girls need to learn to select and prepare food: hence should be given time and instruction for this social task. To deprive them of this training by keeping them in factory or mercantile establishment is to lower the vitality of the coming generation.

the tenth generation. Can this class, however selfish, afford to permit the exhaustion of labor force in one generation? Human labor supply must be continuous, simply as a tool of capital. Granted that an individual employer may make money by the exhaustion of children, the group of employers cannot.

It is said that certain Indians will sell their hammocks cheap in the morning! In Canada a group of aborigines were furnished seed potatoes and shown how to plant them; but as soon as the teacher was gone these thriftless and improvident people dug up the precious seed and feasted on it. Winter seemed so far away. That is the tillage of fools which takes plant food out of the soil in a short series of crops and leaves it barren. The individualistic owners of the forests of Michigan and Wisconsin made themselves rich by destroying the primeval woods and they bequeathed to their heirs a desert covered with the black trunks left by conflagration. Shall this mad policy be extended to the present crop of human workers?

Let every chivalrous man listen one moment to another argument from cost, the cost to mothers! They have a right to be heard here. Their sufferings, anxieties and sacrifices are vastly greater than those of all the soldiers who ever were praised for valor and voluntary sufferings; for all mothers are martyrs. When we become more fully civilized we shall by insurance—as in Germany—provide for their support during the time when the birth and nursing of their infants require all their vitality. We may go further even than that, and recognize the service of child-bearing as a true economic service to the nation.

Connection between Accident, Exhaustion and Ignorance

Ignorance obscures the vision of social value and of cost in parents. It is inconceivable that poor parents would crucify their young children if they only knew the effect of premature labor. When the late Dr. Budin taught ignorant mothers in Paris that the death of their infants was not necessary if they followed his directions they all heeded him; not one case of neglect,—yet poverty pressed them sorely.

The arguments published by mill owners show that they are ignorant—I will not say always wilfully ignorant—of the effects of factory and mill labor in England, Germany, France and all other

older industrial nations. There is no other explanation of their neglect short of a charge of sheer brutality. Ignorance of the general public, of legislators, of teachers, of lawyers, of governors, of preachers and editors, is in great measure the cause of our criminal negligence as a people. Ignorance permits accidents which might be prevented. Ignorance permits occupational diseases and exhaustion which might be diminished. Ignorance permits neglect of insurance which would provide funds for care, lead to precautions and diminish the burden of starvation conditions. The total situation calls for a prolonged campaign of education of teachers, pastors, workmen, and employers in the findings of the science of hygiene and sanitation and of general social protection.

THE LEADERSHIP OF THE CHILD

BY A. J. MCKELWAY,

Secretary for the Southern States, National Child Labor Committee.

It was written of old, "A little child shall lead them." It was written deeply into the very constitution of our nature that the child should lead. Science and revelation unite to proclaim this truth.

Henry Drummond pointed out the fact that there were two struggles for life, the struggle for the individual life, which is concerned with nutrition, and the struggle for the life of others, which is concerned with reproduction, with the life of the species. He showed that at the beginnings of life on this planet, "that early world was for millions and millions of years, a bleak and loveless world, without mothers and without children," and that Nature to develop mothers had to make the young helpless. He bade us "contrast the free, swimming embryo of the Medusa, dashing out into the heroic life the moment it is born, with the helpless kitten or the sightless pup." Then rising to the consideration of the human, he declared: "No greater day ever dawned for evolution than that on which the first human child was born. The child teaches the mother. The next effort of evolution is to lengthen out these school days and give affection time to grow." In the same way, through the leadership of the child, came the development of fatherhood, and the family, the clan, the state.

Wallace declares that in this prolongation of the period of human infancy, "Nature has begun to follow a new path, and make psychical changes instead of physical." And our own John Fiske made an important contribution to evolutionary science by establishing the fact that the prolongation of the period of childhood is the very measure of the progress of the race. "If it were not for our period of infancy we should not be progressive." He says, "The knitting together of permanent relations between mother and infant, and the approximation toward steady relations on the part of the male parent, came to bring about the family, the clan . . . the germ of altruism, of morality." He states this truth more fully

thus: "From of old ye have heard the monition, 'Except ye be as babes, ye cannot enter the Kingdom of Heaven;' the latest science now shows us . . . that unless we had been as babes, the ethical phenomena which give all its significance to the phrase, the Kingdom of Heaven would have been non-existent for us. Without the circumstance of infancy, we might have become formidable among animals, through sheer force of sharp-wittedness. But except for that circumstance we should never have comprehended the meaning of such phrases as 'self-sacrifice,' or 'devotion.' The phenomena of social life would have been omitted from the history of the world, and with them the phenomena of ethics and religion." The history of civilization bears out the teachings of evolution on this point. We need not look beyond the fact of the child marriages that prevail in India to understand why the teeming millions of one of the oldest human civilizations are held in check, are controlled and developed, by the handful of English soldiers and rulers; or why the native tropical races, with their forced ripening of manhood and womanhood, have never developed civilizations of their own. It is a law of nature, "To be a man too soon is to be a small man," no matter what the physical development may be. The virile races are those that have believed in the tutelage of childhood and the development of manhood, the Hebrew, the Greek, the Roman. And in the decaying days of the Roman Empire the historian Tacitus, attributes two pre-eminent virtues to the Germanic races that have since over-run the world, the honor that they paid to womanhood and the prolongation of the period of adolescence. He tells us that it was considered a shame to marry before mature manhood had been reached.

Child Labor Thwarts Progress

Consider briefly how the modern system of child labor cuts across this line of development and progress. Here, through the long eons, the family as the social unit has been developing, motherhood, fatherhood, brotherhood, patriotism, philanthropy. Child labor begins its destructive tendency by disintegrating the family and ends with the destruction of the state. The period of childhood is shortened instead of prolonged. The dependence of the child, so necessary to the development of the social virtues, becomes the independence of the bread-winner. The task of the

father, the husband, the house-bond, is relegated in part or in whole, to the child, who is made the food-provider. The child, from being a blessed incumbrance, tending to home-building, becomes an industrial asset, to be exploited for gain. The child-laborer, coming into competition with the father in the labor market, brings down wages to the child standard, and the mother is forced into the ranks of the bread-winners, because the system of adult male labor has degenerated, by reason of the low wage scale, to the basis of family labor.

The system perpetuates itself. By reason of the illiteracy which is invariably the result of the child labor system, the victim of that system is handicapped in competition with his more fortunate fellows and is relegated to the ranks of the unskilled. He must continue to receive the low wages of the unskilled laborer. Having become independent of parental nurture, he becomes free from parental restraint. We even recognize in some of our defective child labor laws the fact of the dependency of the parent upon the child for bread. Having to fulfil the duties of manhood he feels a right to its privileges, and early marriages become the rule instead of the exception. So the poverty, and the immaturity are handed down in intensified form to the next generation. Illiteracy and resulting poverty are perpetuated and racial degeneracy is the inevitable result. In this new country of ours, with its shifting population, it has not been possible as yet to study such a development in its ultimate results. In the textile industry, which has always been cursed with child labor, and therefore with low wages and long hours, foreign immigration has changed the character of the population. The native New England and Pennsylvania stock, with American habits of thrift and industry, went from the textile mills into the skilled trades as soon as industries were sufficiently diversified to accommodate them. Their places were taken by the English, the Irish and the Scotch, who went through the same process of changing to better conditions as to wages and hours, and their places have been taken by the French Canadians, the Portuguese and the Greeks. In the South, where there has thus far been little help from immigration, and the native American stock is almost universally employed, the industry itself is only measured, in its real development, by a single generation. I have given elsewhere an account of the process of steady degeneracy that has gone on for a hundred

years in England, in its great milling centers, until there has come about "an alarming impairment of the national physique," to quote the words of an English physician.

Paisley

But we have a striking case of this moral and physical degeneration in a Scotch city, the history of which is quoted by Dr. Thomas Chalmers, from a contemporary writer: "From about 1770 to 1800 the manufactures of silk gauzes and fine lawns flourished in Paisley; as also, during a portion of the period alluded to, that of figured-loom and hand-tambourined muslin. These branches afforded to all classes excellent wages, and being articles of fancy, room was afforded for a display of taste as well as enterprise and intelligence, for which the Paisley weavers were justly conspicuous. Sobriety and frugality being their general character, good wages enabled almost every weaver to possess himself of a small capital, which, joined with their general intelligence and industry, enabled and induced many to spend days and even weeks together, in plodding over a new design, assisted frequently by their obliging neighbors, knowing that the first half-dozen weavers who succeeded in some new style of work were sure to be recompensed ten-fold.

"Nearly one-half of Paisley at that period was built by weavers, from savings off their ordinary wages. Every house had its garden, and every weaver, being his own master, could work it when he pleased. Many were excellent florists; many possessed a tolerable library, and *all* were politicians. So that, about the period of the French Revolution, Mr. Pitt expressed more fear of the unrestricted political discussions of the Paisley weavers than of ten thousand armed men. Had Paisley been then, what Paisley is now, crowded with half-informed Radicals and infidels, his fears would have been justified. But truth and honest dealing could fear nothing from a community constituted as Paisley was; and never perhaps in the history of the world, was there a more convincing proof of the folly of being afraid of a universal and thorough education, especially when impregnated with the religion of the Bible, than in the state of Paisley at that period."

Significantly enough, the period of Paisley decadence began with the manufacture of a sham, an incentive to human vanity

and pretence. Our author continues: "The introduction of imitation Indian shawls about the year 1800 required that each weaver should employ one, two or three boys, called draw-boys. Eleven or twelve was the usual age, previous to this period, for sending boys to the loom" (it should be recalled here that this was work at home under the eye of the parent and did not conflict with school attendance, as we shall see). "But as boys of any age above five were equal to the work of drawing, those of ten were first employed; then, as the demand increased, those of nine, eight, seven and six, and even five.

"Girls, too, were by and bye introduced into the same employment, and at equally tender years. Many a struggle the honest and intelligent weaver must have had between his duty to his children and his immediate interests. The idea of his children growing up without schooling must have cost him many a pang, but the idea of losing two shillings sixpence, or three shillings a week, and paying school expenses beside, proved too great a bribe even for parental affection, and, as might have been expected, mammon in the end prevailed, and the practice gradually grew too common and familiar to excite more than a passing regret. Children grew up without either the education or the training which the youth of the country derive from the schoolmaster; and every year since 1805 has sent forth its hundreds of untamed boys and girls, now become the parents of a still ruder, more undisciplined and ignorant offspring. Nor was this all. So great was the demand for draw-boys that ever and anon the town-crier went through the streets, offering not simply two shillings sixpence, three shillings, or three shillings sixpence, for the labor of the boys and girls, but bed, board and washing, and a penny to themselves on Saturday night. This was a reward on disobedience to parents; family insubordination with all its train of evils followed. The son, instead of standing in awe of his father, began to think himself a man when he was only a brawling, impudent boy. On the first or second quarrel with his father he felt he might abandon the parental roof for the less irksome employment of the stranger. The first principle of all subordination was thus early broken up."

Our author goes on to show at some length how the market became overstocked with goods and with cheap labor, with the result of a permanent reduction of adult wages, and closes his description

thus: "Thus was the employment of their children, from five to ten, by the weavers of Paisley, at first an apparent advantage, but in the end a curse, demonstrating that, whatever may appear to be the interest of the parents this year or next year, it is permanently the interest of them and their offspring to refuse every advantage in their temporal concerns, which tends to defraud youth of the first of parental blessings, education; and that Providence has bound in indissoluble alliance, the virtue, the intelligence and the temporal well-being of society. In 1818-19, during the Radical period, there were found full three thousand Paisley-born, and Paisley-bred, who could not read; and the decline of intelligence has been followed by the decline of that temperance, prudence and economy which are the cardinal virtues of the working classes, by which alone they can elevate their condition or preserve themselves from sinking into the most abject poverty."

In the South

It has been my custom at these annual meetings to give a brief description of child labor conditions in the field assigned to me, the Southern States. Every such description, founded on actual observation at first hand, has been disputed and the facts denied. That however denotes progress. The ground of apology for the child labor system has shifted in these last few years from a defense of the system as a good thing for the child and for society to a denial of the abuses of the system and the claim that the evil is fast disappearing. This year our Committee has been conducting some investigations in three of the Southern States, Virginia, Mississippi and South Carolina, the first with an age limit of twelve years, and fourteen for night work; the second with a minimum age limit of twelve, but with the provision that the child of dependent parents may be employed at any age, and the third without any child labor law now in operation. From all three states comes the indubitable evidence of the violations of law, where the law exists, of appalling illiteracy, apparently increasing, and of the wholesale employment of children, with the resulting evils of family disintegration, of early marriages, of wife desertion, of degenerate children.

It is not too much to say that the process that has been described as going on in Paisley is now being repeated with alarming rapidity

in eight hundred communities of the South. Let me quote from a humane and intelligent manufacturer, whom we hoped to have with us at this meeting. Speaking of the early marriages that prevail, Mr. Garnett Andrews, who is in favor of a fourteen-year age limit now, and an eight-hour day as soon as competition can settle upon that basis, said in advocacy of legislation preventing the marriage of children: "I have this thing come before my observation frequently. Right near my mill is a cavalry post; these soldiers, irresponsible young chaps, come around there courting the girls; go to paying attention and keeping company with some girl and marry her. We have had girls married out of our mill at fourteen years of age. And not long ago there was a girl came over there for work with a child in her arms. She was but fifteen and had on short skirts. That was a crime against civilization, against God and against everything else. There are a whole lot of collateral facts that chime in with this labor question. I do not know of one more important than this, even the age-limit they are setting here."

Legislative Progress

I am glad, however, to be able to report progress along the line of child labor legislation since the date of our last annual meeting. North Carolina has raised the age limit from twelve to thirteen and to fourteen for night work, the manufacturers refusing to grant the demand for any reduction of the hours from the frightful sixty-six a week, though some mills have voluntarily reduced them. A local option compulsory education law was also enacted in North Carolina, the manufacturers agreeing, though I have not learned that any of the mill communities have yet been persuaded to put themselves under the operation of this wise and humane law.

Arkansas has raised the age limit from twelve to fourteen, and that for the children of dependent parents from ten to twelve. In South Carolina the manufacturers had agreed to reduce the hours from sixty-six to sixty a week, gradually, reaching the culmination in 1909. The South Carolina Legislature thought that the sixty-hour week would be a good thing in 1908. But both sessions adjourned without having passed the compulsory education law which the manufacturers have favored so long. I could wish that

they were as influential sometimes in passing good legislation as they have been in preventing it. Florida passed its first child labor law, largely as the result of the combination of the labor unions with the women's clubs of that state. It recognizes the twelve-year age limit for all occupations except agriculture and domestic service, and there would have been a fourteen-year age limit except for the opposition of one oyster-packer, who was in the habit of importing Bohemian children from Baltimore for his business. He has since become a convert to the law, for the sake of his rivals in other Southern states. Tennessee enacted a sixty-hour week, and the Tennessee manufacturers, at the Southern Textile conference, recommended advanced child labor legislation to the other Southern states. Unhappily, one of these manufacturers, who has a mill in Mississippi, appeared before the legislature in opposition to the very provisions for which he had voted at the textile conference, including the fourteen-year age limit. Mississippi has passed its first child labor law, leaving now no Southern state without legal protection for the working children, and only one state in the Union, Nevada, without a child labor law. The manufacturers' lobby, however, succeeded in reducing the requirements for factory inspection to a minimum and in cutting down the age-limit from fourteen to twelve.

Alabama has moved forward a long distance, cutting off the ten-year old children who were allowed to work under the old law, making the age limit sixteen for night work, with an eight-hour night for children under eighteen, with a sixty-hour week for day work for children under fourteen. Children under sixteen are required to attend school three months of each year as the condition of their being employed in any manufacturing establishment. The inspector of jails and almshouses was made factory inspector also, and though he has not sufficient assistance to be effective in this work, the beginning of factory inspection has been made. The new Georgia law has just gone into full effect at the beginning of this year, and in Virginia the age limit has been progressively raised to thirteen in 1909 and to fourteen in 1910, while a new provision has been added to the law making the employment of children under the legal age *prima facie* evidence of guilt on the part of both parent and employer. If my advices from Oklahoma are correct, the youngest of the Southern states is preparing to

pass a law which will be in some respects a model for the rest of the Union. Thus far have we advanced in fifteen months in the way of legislation.¹

Special Claim of Childhood

The consideration of the child, as a child, of his rights as a child, of his claims as a child to protection and care, is fast demolishing the old *laissez faire* philosophy which has so long been the curse of Southern political thinking. Of course the first step was the establishment of the common school system. I can remember when it was considered almost as much a disgrace, in Virginia, for a parent to send his child to the common school as to have to go to the poor-house himself. How far we have come in a few years, to the confessed duty of the state to provide an education for every child, white or black, and to the next immediate step, of compelling the ignorant and indifferent parent, to send his children to school!

The next demonstration of the leadership of the child was the agitation of the child labor question. It all dates in the South, from the beginning of this new, young, century of ours. Now there is not a single Southern state without a child labor law. Nor will it be long before legislation shall be perfected here, for compulsory education everywhere, with factory inspection provided. The employer of children will soon find himself so much an outcast, in public opinion, that he will fear to face a jury of his fellow-countrymen to answer for that crime. A few healthy prosecutions will have a marvelous effect in the South.

The distinction between childhood and manhood has begun to be recognized in other ways. The servant of this Committee, in the disbursement of a special fund entrusted to him, has been able to accomplish something along the line of distinguishing between the adult criminal and the child criminal, for instance. One of the encouraging facts connected with social remedial legislation is that a small amount of time and effort and means in awakening public interest in a good cause, may do a vast deal of good, especially if there be no commercial interest directly opposed, as in the child labor reform. In North Carolina a reformatory for wayward youth has been established, following the example set in

¹Child Labor bill passed both House, but was vetoed by Governor Haskell, June 10, 1908.

Georgia the year before. Tennessee followed the example set in Georgia and North Carolina. Alabama, through the efforts of a member of this committee, Judge N. B. Feagin, passed a juvenile court law of a rather advanced type. Senator McDowell, who introduced and passed the child labor law in Mississippi introduced a juvenile court law, which will pass eventually. Two bills for the establishment of juvenile courts are on the docket of the Georgia Legislature. A reformatory for negro child criminals is being earnestly advocated in Georgia. These are but straws showing the direction in which the wind is blowing. May those who sow this wind be able to reap a whirlwind which shall sweep away the last vestige of the old penal systems that are a disgrace to our civilization; that shall wipe away the "blistering shams of the convict lease system." For the question will recur, if the child criminal may be reformed, why may not the adult criminal be turned into the way of righteousness instead of being hardened in his iniquity? The child is leading the way.

Protection of Womanhood

Another epochal step has recently been taken in the way of the protection of womanhood. The South Carolina Legislature, in fixing the sixty-hour week for children, added the same provision for women. The South Carolina manufacturers were advised by their lawyers that this latter provision was unconstitutional—there are always lawyers to be found who can discover the unconstitutionality of righteous legislation, though it does seem a little peculiar to have South Carolina lawyers invoking the aid of the Fourteenth amendment which they at other times hold to have been unconstitutionally adopted. To the credit of the South Carolina manufacturers be it said that they preferred not to contest that law. To the discredit of an Oregon laundryman be it said that he chose to contest a similar provision for that state. To the everlasting fame of a Boston lawyer, Mr. Louis D. Brandeis, the decision of the Supreme Court of Oregon was so presented before the Supreme Court of the United States, in a masterly brief, that the Supreme Court by unanimous vote, instead of the usual five to four, sustained the contention that the woman needs protection at the hands of the law. Said Justice Brewer in delivering this momentous decision: "The limitations which this statute places upon her (woman's) contractual powers;

upon her right to agree with her employer as to the time she shall labor, are not imposed solely for her benefit, but also largely for the benefit of all. Many words cannot make this plainer. The two sexes differ, in structure of body, in the functions to be performed by each, in the amount of physical strength, in the capacity for long-continued labor, particularly when done standing, the influence of vigorous health upon the future of the race, the self-reliance which enables one to assert full rights, and in the capacity to maintain the struggle for subsistence. This difference justifies a difference in legislation, and upholds that which is designed to compensate for some of the burdens imposed upon her." Mark you, it was the child that led the way to this far-reaching decision, and the legislation which secured it. Similar legislation for protecting the vast army of women now in industry will follow. If I may be permitted to express a personal hope, some national organization similar to this should at once be formed, if this Committee is unable to undertake the work, to secure this protection for the women of our land. John Ruskin once said: "It is a shame for a nation to make its young girls weary." America is already thinking in its heart that it is a shame for a nation to make its women weary.

We say to those, who for whatever reason, of prejudice or of supposed self-interest, have been fighting the cause of child labor reform, "ye know not what ye do." I can fancy the complacency with which the employers of child labor all over the land heard of the birth of this Committee, less than four years ago. With not enough money for their expenses to buy one cotton mill or to secure a controlling interest in one coal mine, what can they accomplish? And yet thirty-four state legislatures have changed their laws or enacted new ones for the protection of the children who toil. Because the child stands out in the might of his innocence, the appeal of his very helplessness is irresistible. We would make overtures to those who have resisted the effort to save the children of this nation, not to invite further the condemnation of mankind.

In the most crowded mart of London there stood one day a wee bit lassie upon the curb-stone waiting for the thousand vehicles and teams to pass by that she might cross the street. A tall policeman took her by the hand, and with his other hand uplifted, stopped the traffic of London for the sake of the child. There may have been some grumbling and even curses on the part of teamsters,

but to have driven recklessly over that lassie's body would have been to create a riot. Better the policeman than the mob. And so we say, gentlemen, even if traffic, our sacred traffic, be stopped for a brief moment while we conduct the child along its appointed way, let the traffic stop. For the child means more to humanity than any material gain. Self-interest cannot withstand the universal interest in the welfare of the child.

CHILD LABOR IN NEW ENGLAND

BY E. W. LORD,

Secretary for New England, National Child Labor Committee.

The gospel of work has long been preached in New England. The New England Yankee has ever been noted for industry and thrift, and just as thrift has sometimes lapsed into parsimony, so the insistence upon universal industry may have been pushed to such an extreme that it has ceased in some cases to be a virtue. That children should not be without some employment has ever been a cardinal principle of our faith. We recognize that "Satan finds some mischief still for idle hands to do," although we have also accepted somewhat grudgingly, it is true, that "All work and no play makes Jack a dull boy." The feeling that even the child ought to be usefully employed found early expression in the home life of our people, and in every well-ordered household even the youngest members of the family circle had their regular tasks to perform. As in the average home there was much that children could do, Satan's opportunities to furnish diversion were reduced to the minimum.

In no part of our country did the dawn of our modern industrial system introduce greater changes than in New England. There as elsewhere, the old occupations of the home have gradually been reduced in number, and, in the towns and cities at least, have now to a great extent disappeared; but the feeling of the people towards the inherent danger of idleness has remained much the same and has resulted in the prompt transfer of the workers from the home to the factory. The child who had little to do at home must naturally turn to whatever line of work might be possible outside, and the factories, which were rapidly established throughout all New England, offered in most cases the first available opportunity for what seemed to be profitable employment.

The history of the introduction of child labor and the struggle for its restriction are no different in New England than elsewhere. Maine and Massachusetts early adopted restrictive legislation, forbidding the employment of children under twelve years of age,

and fixing the day's work at twelve hours. As early as 1856 the day's work for those under sixteen was reduced to ten hours. As the need became evident other laws were enacted and other states followed suit. The present laws of the New England States in relation to child labor are fairly satisfactory. Their main features are shown concisely in the table given on page 33.

In all the New England States the minimum age for the regular employment of children in factories or mercantile establishments is fixed at fourteen years, although in New Hampshire and Vermont children of twelve may be employed when the public schools are not in session. This provision until recently prevailed in Maine and was the cause of much difficulty in the enforcement of the law, children frequently going to work during the vacation of the public schools and neglecting to return when the schools opened.

Four of the six New England States demand a more or less definite educational qualification before any minor under sixteen may begin work. Connecticut sets the lowest standard of these four states, requiring only that an illiterate under sixteen must attend evening school, but the state school authorities may establish other requirements. New Hampshire accepts such attendance, but there are few evening schools in the state, and as a rule papers are issued only after an examination in which the child proves his ability to read and write English. Massachusetts fixes the educational qualification at the completion of at least three years' work in the common schools, while Vermont stands alone in New England, and, I believe, in the United States, in the requirement that any minor under sixteen years of age must have completed the entire nine years of the grammar school course before being allowed to go to work, except when schools are not in session. A bill is now before the Rhode Island legislature, with excellent prospect of being enacted into law, in which the ability to read and write English is fixed as the minimum educational qualification in that state. This will leave Maine as the only one of the New England States demanding no qualification of this nature.

Proof of Age

In New Hampshire an affidavit of the parent or guardian is accepted in lieu of any documentary proof of age, while in Vermont, the New England conscience or the acuteness of the school officials

CHILD LABOR LAWS OF NEW ENGLAND

	Maine.	New Hampshire.	Vermont.	Massachusetts.	Rhode Island	Connecticut.
Minimum Age	14	12-14	12-16	14-16	14	14-16
Educational Qualifications	None	Must read and write English	Full 9 Years' Course	3 Years' Course	None	Must attend Evening School
Proof of Age	Certificate	Affidavit	None	Certificate	Certificate	Certificate
Hours of Employment	10-60	9½-58	Not after 8 P. M.	10-58 Between 6 A. M. and 10 P. M.	10-58 Between 6 A. M. and 8 P. M.	10-60
Enforcing Officers	Factory Inspector	State and Local School Officials	Local School Officials	State Police; Factory Inspectors; School Officials	Factory Inspectors	State and Local School Officials
Penalties	Fines (c)*	Fines (2)*	Fines (c)*	Fines (30+)*	Fines (c)*	Fines (61)*
Exemptions	Canneries	None	None	None	None	None
Physical Qualifications	None	None	None	None	None	None

*Number of prosecutions.

is to be relied upon, since the law requires neither affidavit nor documentary evidence. All the other New England States demand either a birth certificate, passport or similar evidence to establish the age.

As to the number of hours of employment, the provisions are more nearly uniform. In Maine and Connecticut ten hours daily and sixty hours weekly are authorized; in Massachusetts and Rhode Island ten hours daily and fifty-eight hours weekly; in New Hampshire nine and two-thirds hours daily and fifty-eight hours weekly. Vermont makes no provision in regard to the hours of work, except that a minor may not be employed after eight in the evening. We may assume that night work after twelve, midnight, would be legal in this case, since there is no morning opening hour fixed.

Maine, Massachusetts and Rhode Island have factory inspectors, whose duty it is to enforce the law. Massachusetts, in addition to employing a large corps of factory inspectors, gives equal authority in the enforcement of all parts of the child labor laws to truant officers in all the towns and cities. In Connecticut and New Hampshire the child labor laws are regarded more in the nature of complements to the school laws, and the enforcement is left to the state or local school officials. The wisdom of this provision is open to question.

Maine's Exemption

Maine is the only one of the New England States which makes any exemption of particular importance in the operation of the child labor laws; there the laws do not apply to any industry dealing with the packing or preserving of perishable goods, that is, particularly, to the canning industries. That this exemption is vicious in its results, is evident to those who are familiar with conditions in that state. Especially in the work of sardine canning on the eastern coast is the labor of children utilized. Sardines which, before they are presented to the public under that familiar name, are commonly known as herring, are caught in great quantities in the weirs, from which they are taken to the factories, where they are immediately cut and cleaned for packing. This work is very simple and can readily be done by children, a very large number of whom are employed in the cutting rooms of all the sardine factories. In many cases one passing through a sardine factory

finds children so small that they cannot possibly reach the fish on the low cutting tables without standing on a stool or box.

While an educational qualification is so generally recognized, none of the New England states has as yet required any physical qualification for the child worker. In the legislatures of Massachusetts and Rhode Island, however, bills fixing a qualification of this nature are now under consideration, and we have good reason to expect them both to become law.

Regulation of Street Trades

Special attempts are made to regulate the employment of children in the street trades in Boston and Portland. In Boston boys under fourteen are allowed to sell papers, black boots, or engage in any street trade, only after obtaining a license from the school committee, and this license can be obtained only by those boys who are regularly in attendance at school and whose conduct is good. This law provides that the boys shall attend school regularly, shall sell only on the sidewalk and not on cars, shall not remain on the street after eight in the evening, and shall always wear the badge provided by the school committee and carry their licenses with them. The main features of the law are fairly well enforced and the beneficial results can not be doubted. In other states little attempt has been made to regulate street trades. I have seen a boy of eleven years selling papers on the street at five o'clock in the morning, and in this particular case I was told by the boy that the only reason that he sold papers instead of working in a local factory was because he could make more money selling papers. When I expressed doubt as to his being able to get work in the factory he assured me that he knew many boys not so old as he who were so employed, and that he had the word of the foreman that he could at any time go to work.

Enforcement

However good a law may be, its practical value lies in its strict enforcement. It is probable that the child labor laws of the different states of New England are enforced as well as are similar laws in other places, but the investigator finds violations everywhere. Even in Massachusetts, where for the enforcement of the law there

is so large a body of officials, and where the sentiment is undoubtedly favorable, violations are not unknown. The report of the factory inspectors for the past year shows a considerable number of prosecutions for violation of the child labor laws, and reports of individual investigators show that, in some cases at least, violations occur and are not detected by the authorities. The greater number of these are probably in the smaller shops and factories, which are less frequently inspected and in which children may be employed for some time without the attention of the authorities being called to it. There is an honest difference of opinion among our people as to whether child labor laws can best be enforced by school officials or by special factory inspectors. Perhaps the Massachusetts provision, which gives these people co-ordinate power, is the best solution of this question. Certainly the school officials must have the right to enforce the laws for compulsory education, which exist in every New England state. To complete their powers, they need only the additional authority to enter business establishments where they may suspect truants to be employed.

In each of the New England States there are ample penalties for violation of the law, but the reports of the enforcing officials show very different results as to the application of these penalties. In Maine no manufacturer has been prosecuted for violation, and this is urged by some as evidence that the law is not well enforced. The factory inspector, however, maintains that he has found the manufacturers anxious to co-operate with him, and that as they have not wilfully violated the law, he has felt it unjust to prosecute them when violations have been detected. In New Hampshire in the past four years there have been only two prosecutions for violations of the child labor laws, and one of these related to the right of the officials to visit establishments. In Connecticut there were last year sixty-one prosecutions of employers or delinquent parents.

Vocational Schools

It is universally recognized that child labor laws and the school laws must supplement each other, but the feeling is manifested that to require a child to attend school until he is fourteen years of age, devoting his whole time to a distinctly literary curriculum, lacks some element of justice, particularly when it is conceded that a very large proportion of school children, and almost all those chil-

dren whose attendance at school depends upon the compulsory laws, are preparing for a life of manual labor. We have tried to believe that, even for the one who must toil with his hands, a literary education, as complete as circumstances might allow, is still of great value. We have felt the need of intelligent workingmen, and perhaps unconsciously we have allowed ourselves to accept the theory that the intellectual intelligence enthroned in our public schools must be the particular kind of intelligence which the workingman should have. Of late this theory has been sharply questioned, and the exponents of industrial education have brought forward the claim that intellectual training, however good it may be, is not enough to meet present day conditions. Nowhere has the demand for industrial or vocational education been more insistent than in New England, and nowhere in our country has a greater effort been made to meet this demand. The action of the State of Massachusetts, in providing for the establishment of vocational schools throughout the state has led the way for similar action in the other states. It is probable that within a few years in all the New England States special provision for vocational education at public expense will be given.

Child Labor Wasteful

Without doubt, the prevailing sentiment in New England, even in the manufacturing districts, is favorable to the restriction of child labor, at least to the extent of the existing laws. The manufacturers in general agree that the older operatives are more profitable, even if not always so tractable. One manufacturer, who has been in business for more than twenty-five years, said to me, "When we could employ children of ten or twelve years of age we had much less trouble with the discipline of the children than we have now with our young help." But the same man indicated his preference for adult workers, saying that the average child even of fourteen, represents a financial loss to his employer until he can be satisfactorily trained and "made to take some thought."

Another manufacturer, in a state where children of twelve may be employed during the school vacation, assured me that he found their employment wholly unprofitable, even when they were paid only about one-half the wages paid to older operatives. Many of the mills which formerly produced some of the coarser grades

of textile goods, have in the past few years turned their attention to the manufacture of goods of higher grade, introducing more complicated machinery and calling for more intelligent and more careful operation. This change has in itself resulted in displacing children and giving employment to operatives of an age at which they may reasonably be expected to "take some thought." One such company, now operating entirely without the employment of children, has been able to declare a dividend of sixty per cent. for the past year. There seems little doubt that cheap workmen may turn out a cheap product, but for the higher grade of goods, with a correspondingly higher profit, the manufacturer cannot afford to employ low grade help. The president of a large textile corporation in Rhode Island recently said to me in this connection: "We would not employ children under fourteen years of age even if the law permitted it. Young children constitute a positive loss to the employer."

The Foreigner

That there is need of strict enforcement of laws for compulsory education and for restriction of child labor comes to the average New England citizen who traces his ancestry back to revolutionary or colonial days as something of a shock. That the American spirit of family pride, which could of old be largely relied upon to secure every advantage for the rising generation, must now be bolstered up with legal props, is cause for wonder, and is sometimes doubted. But one must not forget how the changing times have changed the make-up of the population of the Northern States. When we realize that in Massachusetts, Rhode Island and Connecticut more than one-third of the population is of foreign birth and much more than one-half is of foreign parentage, we can readily see why long-cherished American ideals are in danger. When a further study of statistics shows that a vast majority of the new-comers to those states are from the shores of southern Europe, where neither Saxon nor Teutonic influences have prevailed, the need for constant activity on the part of the educational and legal forces of the state is even more manifest. Like the sleeping Turks of the time of Marcos Bozzaris, the dwellers in the leading industrial towns of New England are awakened by the cry "The Greeks! they come, they come!" The percentage of increase of population of foreign parent-

age in Massachusetts alone during the ten years from 1896 to 1905 shows a gain of 1,242 per cent. from Greece as against a gain of only 22 per cent. from all Saxon and Teutonic lands.

To safeguard the citizenship of the future and to protect those ideals which are so precious to every American, we must continue our work of child labor reform, ever keeping shoulder to shoulder with the educational leaders who are to provide for every child the practical training to which he has an inalienable right.

COMPULSORY EDUCATION, THE SOLUTION OF CHILD LABOR PROBLEM¹

BY LEWIS W. PARKER,
Greenville, S. C.

A recent number of *THE ANNALS* of the American Academy of Political and Social Science is devoted to the child labor problem, and upon reference to that publication it appears that credit is claimed for various states and communities as being the first to agitate this issue in the South. Among others claiming priority, the Rev. C. B. Wilmer, of Georgia, claims priority for his state, and dates the agitation on the subject from the year 1901. If this is the earliest date yet established I must say that you are all in the wrong and that South Carolina in this, as in many other questions, can claim priority. Not only can the claim be made in behalf of South Carolina, but by the cotton manufacturers of South Carolina. For many years prior to 1901 the probable evil results of the employment of children in manufacturing had been fully recognized by many of the cotton mill owners of the state, and steps had been taken, certainly to lessen if not altogether to remedy the evil. In the publication above mentioned, Mrs. Florence Kelley, the secretary of the National Consumers' League, a devoted and zealous advocate of legislation in the interest, as she conceives, not only of children but of American citizenship, refers to the hypocritical attitude of those who would contend that in this country we have not the evil and therefore need do nothing about it.

I certainly have no desire to be characterized as a hypocrite and therefore should not for one moment contend that the evil of the employment of child labor does not exist, nor would I for a moment contend that nothing need be done about it. On the contrary, any intelligent observer must recognize the evil, though opinions may differ as to the remedy and as to the character of the relief to be applied. I believe it is Thomas Carlyle who defines orthodoxy as "my-doxy" and heterodoxy as "your-doxy." Certain

¹See Proceedings of the Fourth Annual Meeting for a discussion of this article.

it is that an unfortunate proportion of those who would characterize themselves as reformers are uncharitable in their conception of the attitude of those who may doubt the wisdom of the policies advocated. They are too apt to brush away any suggestions from others—who may be, from practical experience, more familiar with conditions than they—with the statement that those others are hypocritical or are false in their statement of facts, or are misleading in their deductions from the facts.

A noted reformer stated that no reform could be accomplished without exaggerations. Certainly the advocates of child labor legislation have accepted this statement, for statements made, both as to the extent and as to the effects of child labor, have been much exaggerated. Still, with all this, as I have stated, the evil does exist and there is no advantage or necessity in attempting to minimize it if a correction can be found.

My own connection with cotton manufacturing in the South does not date farther back than twelve years, but within that time I have seen a tremendous development of the industry. In my own State of South Carolina I have seen the number of spindles in operation more than trebled in that period, and consequently the number of employees increased in a somewhat less proportion. With such unparalleled development of the industry I have seen therefore its expansion beyond the immediate possibilities of a proper labor supply, and consequently I have been aware of the temptation to the manufacturer to employ those not suitable for work in the industry.

It would be folly to contend that the proportion of children in the Southern cotton mills was no greater than in the cotton mills of other portions of the Union. The causes of this, however, are evident, and almost equally evident is the method of relief. If he be a public benefactor who makes two blades of grass to grow where but one grew before, equally is he a benefactor who gives occupation to those who were previously without occupation. The close of the war found a large population in the South without means of support. The struggles of the reconstruction period but increased the unfortunate condition of a large portion of our Southern population, who were engaged, to a very large extent, in agricultural pursuits. The steady decline in the price of cotton, the chief product of our labor, served to still further increase our misfortunes. When

there was opened up to our population a means of livelihood through the development of the cotton mill industry, there was naturally an influx to cotton mill communities by those who had been unsuccessful in agricultural and other pursuits.

When it is remembered that in a period of twenty-five years the cotton mill industry has developed forty-fold, and that consequently the proportion of population engaged in the industry has so greatly increased, it is not strange that there should have been in connection with it certain evils. More strange is it that there was on the part of a large proportion of the Southern manufacturers a recognition at a very early date of those evils and an earnest effort, almost from the start, to correct and anticipate such evils. We find that almost from the commencement of the development in the early eighties the necessity of the education of the employees and of their moral and intellectual uplift was recognized. Indeed, as far back as the early fifties, the pioneer of the cotton mill industry in South Carolina, the president of the Graniteville Manufacturing Company, in making his report to the stockholders as to the causes which had made the industry up to that time unsuccessful in South Carolina, mentioned as one of them "the lack of proper effort for the religious and moral training of the operatives." A recognition of this necessity therefore existed when the industry took on a new life in the early eighties, and it is no exaggeration to say that in the development of the first mills during that period, as in the construction of practically each mill thereafter, the schoolhouse and the church were an accompaniment to the construction of the mill building itself.

The poverty of the people of the South has made it impossible for them to do all that has been done in other communities towards the education of the population. Certain it is, however, that in no section of the Union has there been a truer recognition of the necessity of this education. When at times reference is made to the large proportion of illiteracy existing among us, we are too apt to express our feeling of humiliation, rather than to express that other more proper sentiment, namely, pride at the way in which we have overcome the difficulties attendant upon the procuring of an education in the South, and pride in the record which we are making in that respect.

The census of 1900 is in many respects a glorious exhibit

for us. It displayed to the people of the world for the first time a wonderful record of industrial development; but above all it displayed an equally wonderful record of educational development and growth. From that census it appears that the Southern States in the proportion of their population attendant upon schools, exceed any other section of this Union. Taking as an illustration my own State of South Carolina, that census showed that notwithstanding the large negro population in the State, of whom a lesser proportion than of the whites attend school, 21.61 per cent of the whole population were in school. The same census shows that in the great State of New York only 16.59 per cent attended; in the great western State of Michigan only 20.39 per cent, and that in that state of the East which continually prides itself upon its educational facilities, Massachusetts, only 16.12 per cent of the population were in attendance on schools. This is a record to be proud of, but when a closer inspection is made of the census, and an examination of the percentage of white population in school is made, the disproportion existing between the Southern States and other sections of the Union is even greater. It is shown that of the white population, South Carolina, which is merely typical of other states of the South, had 25.23 per cent in schools; whereas New York had but 16.40 per cent, Massachusetts but 16.07 per cent and Michigan but 19.64 per cent of their native white population. I do not feel, therefore, that there is any apology to be made in behalf of the South for its educational development. On the contrary, there is every reason to be proud of our record and of the proof of educational zeal and ambition. When reference is made to the large proportion of illiterates, reply can justly be made that to a large extent these were illiterate consequent upon misfortunes of war, and that even though the percentage remained large in later periods, this was still the result of a poverty consequent upon the same cause.

When, therefore, I would advocate compulsory education as a solution of the child labor question, I do so not from any view that the South is not doing a great deal in the cause of education, but rather from the view that there is much yet to be done, and that we cannot afford to rest upon our laurels.

If we are to accept the words of those who now pride themselves upon the supposed results of child labor agitation, this agita-

tion commenced about the year 1900 or 1901; yet even as far back as that date we find the manufacturers of South Carolina uniting in a request to the legislature of their state for the enactment of three laws: the first, compulsory education itself, as being the solution of the child labor question; secondly, a birth registration law, as a necessary incident to any child labor legislation or any educational law; and third, for a marriage license law, as being necessary for the morality of the state, and particularly for maintaining morality in concentrated industries, such as cotton manufacturing. This agitation on the part of the manufacturers has been repeated each year. In its early years, there were found in the legislature few supporters of compulsory education, a large majority of our solons believing that it was not practicable, owing to the large proportion of negro population. The movement, however, has continued to grow in strength and within the last year or two the bill has missed its passage in the legislature by a very narrow margin. I have every reason to believe that within a comparatively short time compulsory education will be a settled fact in South Carolina. In January, 1907, the Cotton Manufacturers' Association of South Carolina, through its constituted committee, made its last appeal to the legislature upon this question and I cannot do better than insert here the words of that appeal:

To the Honorable Senate and House of Representatives of the State of South Carolina:

The undersigned committee was appointed by a meeting of the South Carolina cotton manufacturers, held at Greenville, S. C., June 5, 1906, and representing nine-tenths of the state's spindleage, with instructions to memorialize your honorable body, urging the passage of: 1st, A compulsory education law; 2d, a marriage license law; 3d, a law requiring the registration of births.

The three subjects will be briefly mentioned in reverse order to the above, the intent of this memorial being, not to enumerate the many arguments which might be advanced in favor of the passage of the laws suggested, but chiefly to put the state's textile manufacturers squarely and definitely on record as favoring and earnestly urging such legislation.

REGISTRATION OF BIRTHS.

The lack of proper registration of births and consequently inability to ascertain positively the ages of children is a constant hindrance to those who are conscientiously trying to adhere rigidly to the requirements of the recently enacted law governing the employment of children of tender years—commonly known as the "Child Labor Law."

In fact, this absence of age record is in many instances a shield to grasping and unscrupulous parents against whose greed the law is intended to operate. It is true it will take time for such a record to be of value, but this merely emphasizes the importance of delaying no longer in commencing the accumulation of data, the need for which is already at hand.

MARRIAGE LICENSE.

Our state's position as to divorce is well known. Is it not by reason thereof specially incumbent upon us to throw greater safeguards around the entering into marriage relation? The early age at which matrimonial alliances are formed is in itself startling. The frequency with which the relation is severed—merely by mutual consent or by desertion—is a deplorable menace to morals. We voice the sentiments, not only of the mill managers, but we believe of the more thoughtful and discerning mill operatives, when we urge the requiring of marriage licenses, and greater watchfulness as to the violations of existing laws.

COMPULSORY EDUCATION.

Irrevocably opposed, as we are, to "class legislation"—to the passage of any laws designed either to exercise restraint over, or to accord special privileges to, any one class of our citizens alone—we have been unable to give our support to measures heretofore introduced intended to require school attendance on the part of cotton mill operatives only.

We admit that the facilities now provided by many of the mill corporations, the longer term of the mill schools, etc., would emphasize the necessity of compelling the youth of the cotton mill villages to accept the educational advantages thus afforded.

Still it must be remembered that it is from the farms that the bulk of our textile workers have come, and are still coming, and that the statistics as to lack of education—so easily obtained from the compact mill village—still reflect to a greater extent the educational deficiencies of the remote rural districts.

There are already more negro children than whites enrolled in the public schools of our State—the percentage of attendance of the negro children is larger. How much longer will the senseless fear of forcing (?) the negroes into school deter us from requiring an acceptance by the children of illiterate whites of the opportunities of learning which our public school system offers? Through what other method can a more intelligent citizenship be obtained?

We earnestly urge, hence, the passage of a law compelling school attendance by all children between the ages of eight and twelve, regardless of residence or avocation of parents.

JOHN A. LAW, *Chairman*,
R. E. LIGON,
J. ADGER SMYTH, JR.,
E. F. VERDERY,
GEO. W. SUMMER,
J. M. GEER.

I know that opinions differ as to the question of precedence between child labor legislation and compulsory education. Some there be who argue that compulsory education is a sequence rather than a precedent to an effectual child labor law. Others—and among those I must class myself—claim that the compulsory education law is in itself the best child labor law. The child labor law is merely negative in its effect. It may keep the child out of occupation, but it does not keep him out of mischief, nor does it do anything to improve him so as to make him in the future a useful citizen. The compulsory education law, on the other hand, necessarily keeps a child out of any gainful occupation which may be harmful to it. In addition to that, it affords affirmative relief in that it does tend towards the improvement of the child and does tend to make that child prepared to be a future useful and gainful citizen. In states where the child labor law has been tried without compulsory education, this has, I think, become recognized.

I cannot state this conclusion in better words than it is stated by a report of the chairman of the Wisconsin Child Labor Committee, appearing in the publication heretofore referred to, where he says: "The Wisconsin Committee is convinced that child labor laws standing by themselves, even if they are modern in form, are too often a mockery of legislation, unless they are accompanied by satisfactory and thoroughly enforced education and truancy laws, and by ungraded rooms and schools, playgrounds and park facilities, and in general, unless when employment is denied children, school and vacation facilities are given and school attendance compelled. Our committee therefore seeks not only a child labor law which shall be practical and modern in the best sense, but also to keep fully abreast (and if possible in advance of that standard) the educational system of the state, including compulsory education laws and satisfactory truancy laws." . . . Undesirable as are certain forms of child labor, and much as we may look forward to a time when no child under sixteen shall be employed at gainful occupations; the fact remains that under existing conditions, a great number of such children must work for wages, and that it is far worse to have children in idleness on the streets, studying in the school of crime, because of the lack of proper educational laws and of vacation schools and playgrounds and other proper and normal ways to use the abounding strength of childhood.

But there is another view in which I feel the compulsory education law is to be preferred to the child labor law, while accomplishing the same object, namely, keeping the child out of the factory. Unquestionably the child cannot be both at school and at work, and therefore a compulsory education law is, as stated, a child labor law. The census of 1900, to which reference has been made, showed that whereas in 1870, the number of wage-earners employed in cotton mills formed only 13 per cent of the number employed in all industries in the State of South Carolina; by 1905 this per cent had been increased to 62, and a recent compilation by Mr. Watson, the State Labor Commissioner, would indicate that in 1907 the per cent had increased to probably 80 per cent of all employees in all industries. A child labor bill, therefore, in South Carolina is too evidently a bill aimed at cotton manufacturers and at cotton mill employees. Inasmuch as these employees constitute a great majority of the wage-earners in industrial enterprises, such a bill is necessarily aimed at them. No such objection can be made to a compulsory education law. Such a law is aimed at all classes and affects all classes alike. An illiterate and ignorant cotton mill employee is not the citizen he should be, neither is an illiterate and ignorant employee in any other vocation such a citizen as is to be desired. The compulsory education law would tend to raise the standard of all classes of citizens and would bear equally upon all. Why, therefore, should laws be passed applicable, if not in terms, at least in effect, upon practically one class only, when an equal and more advantageous law can be passed applicable to the class which may be sought to be reached, and equally applicable to all other classes?

There is an unfortunate tendency in the public mind to classify cotton mill employees as a class to themselves. Constituting as they do in certain sections of the South, the largest proportion of industrial wage-earners, any law which would tend to exaggerate this present tendency of classification is unfortunate. The compulsory education law, on the contrary, does not exaggerate that tendency, but decreases it, as it brings all classes of citizens under the same terms. This has been the position of the cotton manufacturers of our State, in antagonizing legislation of any character which sought to apply particularly to cotton mill employees. They have felt that any laws which were applicable to the citizens in other vocations should be made applicable to those in cotton mills,

but that it was neither just nor expedient to single out the cotton mill industry as the industry to be reached by special legislation. For this reason we have opposed in all earnestness laws seeking to apply educational qualifications to children employed in the mills unless such educational qualifications were applied equally to children of those in other vocations. But while taking that position, we have urged with equal earnestness, as shown in the appeal to the legislature heretofore referred to, the passage of a compulsory education law applicable to all classes.

The cotton mill manager fully realizes the benefit coming to him from an intelligent and educated laborer. He wishes such a class of labor. It has been his misfortune that a large proportion of the labor heretofore coming to him has not been of that class, and has therefore served to limit the scope of his manufacturing. The tendency in the South is to get away from that class of goods which in the early ages of cotton manufacturing it was thought could alone be made in the South. The tendency is towards a higher and better class of work, and the cotton mill manager appreciates that to be successful in this class of work and to compete with the best New England and English mills, he must have the best class of labor. He therefore welcomes any law, including the compulsory education law, which tends to elevate and improve the condition of his labor.

I do not think the earnestness with which the Southern cotton manufacturers, as a rule, have striven to prevent the setting apart of the cotton mill employees as a class has been fully appreciated, or that the unfortunate results of such a classification are fully known. It is to make the cotton mill employees of the same type as other classes of citizens; it is to raise their ideals and to improve their characters that we find a continuous progress on the part of the cotton mill manager, in the establishment of schools and churches, or young men's and young women's Christian associations, in the institution of libraries, lyceums, gymnasiums, swimming pools, parks and playgrounds. It is for the same causes that our employees are constantly encouraged to take an active part in the duties of citizenship, to serve on juries, to attend political conventions and to assert themselves in juries and conventions. In other words, it is our earnest desire to bring these employees up to the full measure of the average citizenship of our state, and anything

which tends toward that end meets, as a rule, the hearty approbation of the mill manager. Likewise, anything which tends to degrade or lower the employees as a class meets our earnest and persistent disapprobation.

Contrasting, therefore, the child labor law with the compulsory education law, we feel that one tends to degrade, the other does not, in contrast with other classes of citizens.

As I stated previously, there is at all times a tendency on the part of those seeking social reforms to exaggerate the extent of the evils at which they reach. I, on my part, would not minimize the extent of child labor or the evil of it. At the same time, I cannot think that advantage comes of a reform caused by exaggerated and misleading statements.

I trust that the officers of your Committee, under whose auspices this meeting is held and at whose invitation I speak here to-day, will not misunderstand or be offended, when I refer to some of their own statements as both misleading and exaggerated. In an article published by one of them in a prominent magazine it was stated: "Sixty thousand little children are to-day toiling in Southern cotton mills; little girls eight years old work through a twelve-hour night." In the Outlook this advertisement was printed by your committee: "The National Child Labor Committee wants your help to rescue two million children from premature labor." Dr. McKelway, the Assistant Secretary of your Committee, in an article appearing in *THE ANNALS* of the American Academy of Political and Social Science, to which I have heretofore referred, reaffirms these statements in an article entitled: "South Awakening Against Child Labor," and among other things, says: "An estimate of mine, published a year ago, that there were sixty thousand children under fourteen in Southern cotton mills has been widely challenged and abusively denied." Again he says: "Fortunately for the cause of the children, a recent study of the population tables of 1900 gives the result of that house-to-house canvass as to the number of children ten to fifteen years of age, engaged in particular industries. From that we learn (Census Bulletin 69) that three out of ten operatives in Southern cotton mills are from ten to fifteen years of age. This takes no account of quite a considerable number of children under ten so employed. . . . But three out of ten is thirty per cent, or 62,700 children from ten to fifteen years of age, to which two or

three thousand should be added for children under ten years of age. It is my opinion that the percentage of children employed has increased since 1900 on account of the shortage of the labor supply and demand for more operatives caused by the increase of fifty-five per cent in the number of spindles since 1900. The figure given, 60,000 children under fourteen, is thus seen to be a conservative estimate."

It is true that the census of 1900 does show that there are in the United States 1,750,178 children ten to fifteen years of age engaged in gainful pursuits, but of this number 1,061,971 are reported in the same census as being engaged in agricultural pursuits, as to which the statistician, in the same report, says: "There is one broad class of occupations in which child labor is not open to most of the objections ordinarily urged against it. These are the occupations connected with agriculture. The work of the child on the farm is usually not injurious to health or morals, and does not necessarily interfere with the opportunities for schooling. . . . It is important at the outset to call attention to the fact that about two-thirds of the total number of child bread-winners were employed on the farm and that most of these children were members of farmers' families." Of the remaining number of child laborers ten to fifteen years of age, not engaged on the farms, to wit: 688,207, he says: "But of the total number of children, in the aggregate 310,826, or nearly one-half, were fifteen years of age, and 501,849, or over two-thirds, were either fourteen or fifteen years of age, at which age the evils of child labor are not generally regarded as serious, except in a few occupations of exceptionally injurious or objectionable character, the range of which is somewhat larger for female children than for male.

"If the children fourteen to fifteen years of age are eliminated from the above total, there remain 186,358 children representing the number of child bread-winners ten to thirteen years of age, exclusive of those employed on the farm. The child labor problem, so far as it may be measured by the twelfth census statistics, is for the most part restricted to this group, which includes practically all of the child bread-winners enumerated by the census, whose employment is itself regarded as a grave evil and a menace to the welfare of the Union, and on the other hand probably includes comparatively few whose employment is entirely unobjectionable."

It will be noted, therefore, that your committee's two million children to be rescued from premature labor has dwindled down to 186,000, and the measure of the exaggeration is ten to one, which I do not think is to be regarded as a gross exaggeration in comparison with most reformers. The figures are equally wide of the mark when consideration is given to the conditions in the Southern cotton mills. The original statement appears to have been that "Sixty thousand *little* children are to-day toiling in Southern cotton mills." I take it that "little" children, as ordinarily construed, would certainly mean children less than twelve or thirteen years of age. In fact, I think it would be generally understood as children less than twelve years of age. I hardly think that even a child of thirteen is to be characterized as a "little child." Be that as it may, the census of 1900, as reported in Bulletin No. 69 of the Department of Commerce and Labor, shows that there were in the whole United States 18,926 children from ten to thirteen years of age engaged in cotton mills. Of this number, 16,105 are shown to be in the Southern states, which is a lamentable and regrettable fact. There is, however, a great disproportion between that 16,000 and the 60,000 claimed.

"But," says your assistant secretary, Dr. McKelway, "this census is of the year 1900, whereas there has been a great increase since that date." His opinion on this subject is not borne out by any statistics to which he can refer. In the census of manufactures given in Table 31 of Bulletin 69, heretofore referred to, it is shown that the total number of children at work in Southern cotton mills, ten to fifteen years of age, increased in the Southern states from 1900 to 1905 only 2,828, and whereas the number of adult males increased in that period 36 per cent, it appears by the report that the increase of children ten to fifteen years of age was only 11 per cent, indicating a great decrease in the proportion of children employed.

But, as I have previously shown, the census statistics show that over two-thirds of the children reported in the census of 1900, ten to fifteen years of age, as being in gainful employment, were over thirteen years of age. Assuming therefore that this proportion holds good in 1905, it would appear that of the children in Southern cotton mills, ten to fifteen years of age, to wit: 28,135, two-thirds, or approximately 19,000, were over thirteen years of age, leaving therefore only approximately 9,000 as being ten to thirteen years

of age. Thus do the 62,000 estimated by Dr. McKelway dwindle to 9,000, or an exaggeration of seven to one. "But," says Dr. McKelway, "the census figures of 1905 were obtained from the manufacturers, and therefore cannot be relied upon, but fortunately for the cause of the children, a recent study of the population tables of 1900 gives the result of that house-to-house canvass as to the number of children ten to fifteen years of age engaged in particular industries."

That house-to-house canvass to which Dr. McKelway refers shows, as stated in Table 30 of Bulletin 69, that whereas the manufacturers in 1900 reported 25,307 children ten to fifteen years of age as working in Southern cotton mills, a house-to-house canvass showed 27,661 or a variation of approximately 10 per cent. The statistician of the census is more charitable than Dr. McKelway, and does not think that this variation of 10 per cent necessarily arises from deception on the part of the manufacturers, but he explains the difference by stating: "The variations between the census of the population and that of manufacturers in the figures presented for 1900 are, of course, due to differences in the character of the two censuses. The figures for manufacturers give the average number of wage earners of all ages employed during the year about the cotton mills in any capacity. The figures for population, on the other hand, give the total number of persons in the population at least ten years of age who reported themselves as having occupation peculiar to the cotton mills, although those persons at the time of the census may not have been actually engaged in the pursuit of such occupation."

Is not this a natural explanation? The manufacturer reports his employees at a certain date, or during an average period. The census enumerator reports those who call themselves employees, but who may not have been at work at the actual time that the manufacturer made his report. Be that as it may, the Census Bulletin No. 69, in Table 31, makes an estimate of the children at work in the cotton mills of the South, based upon "the assumption that an enumeration of the population would disclose an increase or decrease proportionally to that shown by a comparison with the reports of manufacturers for 1900 and 1905." And the census therefore estimates that the number of children ten to fifteen years of age in Southern cotton mills in 1905 was 31,085, or an increase

over the number reported by the manufacturers themselves of slightly less than 3,000, or in other words a variation of approximately ten per cent.

Assuming therefore the correctness of this estimate of the census, and assuming the usual proportion over and under thirteen years of age to exist, it would appear that two-thirds of the 31,085, or approximately 20,000, were fourteen years of age and over, and only approximately 10,000 were thirteen years of age or under. Our friend again has exaggerated six to one.

That the tendency is toward the employment of more mature persons and not toward the employment of children in at least the South Carolina mills, is fully shown in a summary of the South Carolina textile industry appearing in the "Handbook of South Carolina," issued by Hon. E. J. Watson, State Commissioner of Agriculture, Commerce and Immigration. On page 467 of this handbook it is shown that in 1900, the total number of employees of the South Carolina mills was 30,201, of which 8,110 were children under sixteen; in 1905 the total number of employees was 37,271, of which 8,835 were children under sixteen; and in 1907, the total number of employees was 54,887, of which 8,121 were under sixteen years of age. In other words, although from 1900 to 1907, inclusive, the number of employees in South Carolina mills had almost doubled, there was an increase of but eleven children in the number under sixteen years of age. This certainly should be a gratifying exhibit, and should be a proof of the desire and willingness of the manufacturers of South Carolina to conform to the law of the state with reference to the employment of children, and furthermore, a proof of the fact that they appreciate that the employment of children is not to their advantage, either economically or otherwise.

The census of 1905 further discloses that in South Carolina in 1900, the population of mill villages was 61,468, the number of employees 30,201, or a percentage of employees to population of 49 per cent. The census of 1905 shows a population in mill villages of 86,966, with employees of 37,271, or a percentage of employees to population of 42.8 per cent. Do not these figures show therefore a perceptible decrease of employees in occupation, and a deduction that the cause of this is the less necessity on the part of the male head of the family to seek the assistance of his children and wife in the efforts for support? An estimate of the population of mill

villages in 1907, with the number of employees, still further shows this tendency and reduces the percentage of employees to population to 40 per cent, illustrating and proving the same tendency.

As is well known, the cotton manufacturing industry in South Carolina, as indeed in nearly all the Southern states, is concentrated in what is known as the Piedmont region. The number of spindles in the cotton mills of South Carolina in 1907 was 3,688,761, as against approximately 9,000,000 in the whole South; or, in other words, 40 per cent of the spindleage of the South is in South Carolina. Of the South Carolina spindleage, 1,962,064, or more than one-half of the whole, are to be found in the counties of Greenville, Spartanburg, Union and Anderson, adjacent counties, and all in what is known as the Piedmont section of the state. If, as contended by Dr. McKelway, there has been a large increase in the employment of children, then certainly the school statistics of these four counties should prove such a fact. Whereas, these school statistics, with the compilation of which the cotton manufacturers had nothing to do, distinctly prove otherwise. These school statistics are prepared by the state superintendent of education, and cover the whole state, and have no reference whatever to manufacturing conditions.

The report of the state superintendent of education for the scholastic year 1906, shows that the population of South Carolina in that year, based upon an estimate of increase over the census of 1900, was 1,467,391, and that the school enrollment for the state during that year was 314,399, or the percentage heretofore referred to of 21.61 per cent of the population enrolled in schools. The estimated white population of the state in 1906 was 601,631; the enrollment of white school children for the year was 24 per cent of the white population. The enrollment in the negro schools was 19.6 per cent of the negro population. In Spartanburg County the estimated population was 71,662 and the school enrollment was 25.2 per cent of the population. In Greenville County the estimated population was 58,998 and the school enrollment was 23.9 per cent. In Anderson County the estimated population was 62,940 and the school enrollment was 23.5 per cent. In Union County the population was 25,579 and the school enrollment was 30.3 per cent of the population. In other words, the average of the four cotton mill counties was 25.7 per cent, as against the average for the whole state of

21.6 per cent. It shows, therefore, at least that a full percentage of children, as contrasted with the remainder of the State, are attending schools in the four counties referred to. When it is remembered that those living in the cotton mill villages of South Carolina number approximately one-fifth of the entire white population of the state and nearly one-third of the entire population, white and colored, of the four counties referred to, it would seem that if there were the enormous number of children supposed by Dr. McKelway to be in the mills, the proportion of children attending the schools could not be greater than the average throughout the remainder of the state.

This comparison is made even more interesting when contrast is had with other counties of the state in which there are no cotton mills, or in which, if there be any, they are so small in number and size as to be no important factor in population. I have contrasted, therefore, the four Piedmont counties referred to with the four counties of Orangeburg, Colleton, Horry and Sumter, two of which—Orangeburg and Sumter—are among the leading agricultural counties of the state. Colleton and Horry, while not so important in their population or wealth as the other two, are nevertheless good counties, and Horry has one of the largest proportions of whites to blacks to be found in any county in South Carolina. These four counties show a proportion of school enrollment to population as follows: Orangeburg, 23.9 per cent; Colleton, 18.4 per cent; Horry, 23.2 per cent; Sumter 21.9 per cent; or an average for the four counties of 21.9 per cent.

To summarize, the four leading cotton mill counties show a proportion of school enrollment to population of 25.7 per cent. Four equally representative agricultural and non-cotton mill counties show a school enrollment in relation to population of 21.9 per cent. Does this not speak volumes in itself, and do these figures not clearly prove that the cotton mill population of South Carolina is securing the advantages of schooling in full proportion to other sections of the state? Do these figures not prove that the policy of the cotton mill corporations in the encouragement of education is having its effect and that the cotton mill employees are reciprocating this policy and are evidencing a desire to secure to their children advantages which they themselves were not able to have before their advent to the mills? Do not these figures prove that the policy of the mill

corporations to install a school at each mill village is having its natural result in the education and cultivation of the employees, and that it is a wise policy of the corporation not to be limited by the public school fund, and schools of from three to five months in duration, but to establish schools in large part paid for out of the funds of the corporation and maintained for from seven to ten months in the year?

In conclusion, do not these school statistics clearly show that the cotton mill corporations and the employees of these corporations have nothing to fear from a compulsory education law, but have everything to gain, inasmuch as such a law will be applicable to all classes of people and would force the same degree of school attendance upon other classes as is sought for and desired in behalf of the cotton mill employees?

COMPULSORY EDUCATION IN THE SOUTH

BY GEORGE F. MILTON,
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The Germans were the earliest to institute a system of general education, and the wonderful progress of Germany in every respect is now largely attributed to the thoroughness of such national education. The fact that in Germany elementary education has been generally compulsory and to a large extent also gratuitous, for more than one hundred and fifty years, is recognized to be an essential element in recent political, industrial and commercial successes of the nation.

France offers a good illustration of the rapidity with which illiteracy may be reduced as a result of good attendance laws. In 1854, no less than 42.5 per cent. of the French people were illiterate. In 1870, at the end of the Empire, 31 per cent. were illiterate, and in 1880 the condition was very little improved. In 1882, the compulsory education act went into effect and as a result, in 1900, the illiteracy had been reduced to 6 per cent.—only one-fifth of what it was eighteen years before.

As showing the relation of the compulsory school system in Germany and other European states to illiteracy, the following statistics of adults are suggestive: German Empire, .05 per cent. are illiterate; Denmark, .02; Finland, .49; Switzerland, .13; Scotland, 2.46; Netherlands, 2.30; England, 3.00; France, 4.70; Belgium (not compulsory), 10.10; Austria, 35.60; Ireland, 7.90; Hungary, 47.80; Greece, 30.00; Italy, 32.99; Portugal, 79.20; Spain, 68.10; Russia, 61.70; Servia, 79.30; Roumania, 88.40.

The right of state authorities to require the attendance of all children at school was asserted early in the American colonies. Connecticut may claim to have been one of the first states in the world that established the principle. Its code of laws adopted in 1650 contained stringent provisions for compulsory attendance upon schools. In 1810, with the changed conditions resulting from immigration, it was found impossible to enforce the law without important additions, amounting in reality to a set of factory laws, forbidding the

employment of children under fourteen years of age who have not attended school for at least three months in the year.

Compulsory educational laws have not been adopted in any of the Southern states except Kentucky and Missouri. Four counties in Tennessee, through legislative enactment, have such laws, but no fair test has yet been given. In Asheville, North Carolina, by popular vote an ordinance was adopted requiring compulsory education. That state has a local option law for cities as to compulsory education. In the South great progress has been made in public education, especially during the past twenty years, despite the fact that this section remains, of all the Union, the only section where attendance on public schools between the ages of six and fourteen for a considerable period each year is not compulsory. But how necessary is an even greater effort to secure universal elementary education in the South is shown in the fact that in 1900, 27.9 per cent of all the illiterate white voters in the United States were in the South, while only 14.9 per cent of the white voters of the country were found here. In other words, we had nearly twice the illiterate population among the whites of voting age that our proportion of population justified.

Decrease of Illiteracy

I have no disposition to minimize the progress made in the South in reducing illiteracy. The record, in fact, is encouraging. In the South Atlantic division, for the entire population, white and black, ten years and over, the percentage of illiterates was reduced from 40.3 per cent in 1870 to 23.9 per cent in 1900, or nearly one-half, while in the South Central Division the reduction was even more marked, the percentages being 44.5 per cent in 1870 and 22.9 per cent in 1900. During these thirty years the percentage of illiteracy in the whole United States was being reduced from 20 in 1870 to 10.7 in 1900. The proportionate reductions were thus larger in the South, by a good deal, than in the North Atlantic states, though slightly less than in the Central and Western.

Considering the white population alone, the percentage of illiterates in the South Atlantic division in 1870 was 23.5, and this had been reduced to 11.5 per cent in 1900. In the South Central states the percentages were 23.4 in 1870 and 11.8 per cent in 1900. For the United States the percentages were 11.5 in 1870 and 6.2 in 1900.

The South, despite the reductions made, is still in point of average literacy behind all the other sections of the Union, and far behind such countries of Europe as the German Empire, Switzerland, Scotland, Netherlands, England, France, Belgium, Ireland. Only Austria, Hungary, Greece, Italy, Portugal, Spain, Russia Servia and Roumania of European countries make a worse showing.

Twenty out of the thirty-three counties of Tennessee have in the male whites, able to vote, over 20 per cent illiterate—an aggregate of 13,450. In one of the three grand divisions of the state, there are, I estimate, about 20,000 white illiterates of voting age. In fact, despite the decrease in the percentage of illiterates in the past three decades, the actual number of white illiterates of voting age had actually increased from 37,713 in 1870 to 52,418 in 1900. Tennessee is by no means alone in this condition. In mountain sections of all the South the conditions are most serious, but the white illiteracy is by no means confined to these districts.

Do not understand me to assert that these illiterates are not in many ways educated. They are shrewd, observant people. They are industrious and thrifty. Their intelligence in many respects is large. They are of the best Anglo-Saxon stock and in different environment make rapid progress. Yet, unequipped with ability to read and write, deprived of the illumination of the written word, out of touch with the progress of the world, what a tremendous obstacle must they overcome! Consider what the economic, political and social uplift of a state would be if this population were by reading able to improve itself. In 1906, a candidate for Governor of Tennessee, or Georgia, on an illiteracy platform, receiving the united support of all the illiterates, white and black, would not have been the third man in the contest.

Attendance vs. Enrollment

The fault in our school system seems to lie not only in the failure to secure the enrollment of the child, but more especially in the failure to secure his attendance after enrollment. The scholastic population in Tennessee, with which state I am familiar, was about 772,000 in 1905. There were 507,000 enrolled, 537,000 including private schools, but the average attendance in public schools was only 348,000. When we remember that the average school year in Tennessee is only 116 days, and that less than half

the school children are in school even half that short period during the year, we may appreciate why this condition is present. On its face, the enrollment is creditable, but the irregular attendance and short terms of school make it impossible to cope with the mountain of ignorance to be cut down which needs heroic efforts.

If Germany, with less than one-half of one per cent. of population illiterate, requires a ten months' school course for all pupils from six to fourteen years of age, how will a Southern state reduce its illiteracy to the same degree, with a 116-day course, and one-half the pupils in school?

It has been asked regarding Tennessee, which is typical, "If 242,498 children were not enrolled in the public schools in 1895, and 265,471 were not enrolled in the public schools in 1905, how long will it be until all who are eligible are enrolled?" and "If 382,293 were not in average attendance in 1895 and 424,206 were not in average attendance ten years later, and the per cent. of such attendance is now 68.7, how long until the per cent. of average daily attendance will begin to show an increase?" It may also be asked "If there were more illiterate voters in 1900 than in 1870, when will there be none?"

The campaign for education in the South has accomplished much. Tennessee, for example, is spending nearly \$3,400,000 a year on its public schools. This is not quite \$5 per capita of scholastic population, but it is a considerable increase. Yet many states spend \$15 to \$20 per capita.

In general, it may be said that the school terms have been lengthened, the teachers paid better salaries, better buildings and equipment furnished. But does this suffice? Are not even more heroic remedies needed for a condition manifestly so dangerous?

The matter of the present bad attendance is shown in the reports for Knox County and Knoxville. The scholastic population of Knox County for the year 1905-06 was 28,204. Of this number 10,682 belonged to the City of Knoxville, and 17,522 to the rural districts. The enrollment for the city was 5,833 and for the rural districts 12,225. It will thus be seen that the percentage of enrollment was 54.6 in the city, and 70 outside the city. The average attendance of all the scholastic population was 43 per cent in the city and 42 per cent in the country districts. The schools in the city were open 179 days, and those in the country 157

days. The enrollment was good, but owing to lax interest of parents, only forty-three out of every hundred children of school age in the city attended, and less in the country.

To show how the attendance drops off year by year, take the Knoxville schools by grades. Nor is the showing in that city exceptional. In the First grade there were 1,797 pupils; Second, 775; Third, 811; Fourth, 694; Fifth, 504; Sixth, 461; Seventh, 291; Eighth, 261; Ninth, 150; Tenth, 89. Look at the little army of nearly 1,800 diminishing to one-seventh its number before the high school is reached. How many reach the university? How many any technical school? Less than 5 per cent. of our boys and girls acquire an education which we would consider an average common school education.

If the children in school were kept in school for a period long enough to acquire an average elementary education, and thus be equipped with a training which would enable them to pursue their own self-education, the aspect of the situation would not be gloomy and we might ignore these unpleasant statistics of illiteracy. Technical illiteracy would not be alarming, if it did not indicate a condition which nearly always accompanies it. How can we compete with a country like Germany when only one-twentieth of the scholastic population, even of our average cities, has acquired an education equal to that which the entire youth of Germany receives? Furthermore, how shall we compete in industry, commerce and agriculture, when so small a proportion of our population receives technical instruction, while in the Kingdom of Prussia alone there were 2,989 technical or continuation schools, which were attended by 219,492 pupils?

It is, of course, better for the child to secure even two or three years' rudimentary training than none at all, but certainly it is wrong for the state to allow the unworthy parent to permit the child to leave school with such a small equipment for life's battle.

Illiteracy a Public Loss

How little, comparatively, we spend on education, despite our great advance of late, may be gathered from the fact that if the average teacher in Tennessee worked the average number of days at the average salary he would earn only \$158.40 a year. Con-

sidering the remuneration, it is truly astonishing that so many devoted and painstaking teachers are obtained for the work; but, of course, on the average the instruction must be inefficient.

I am free to admit that while compulsory education is an ideal condition difficult to be realized, and that a further development of public sentiment in favor of universal education must precede it, just as every reform, moral, social or political, must come as a result of general conviction; nevertheless, our efforts seem futile unless we arouse the states to such an extent that by a mighty effort, under a compulsory system, supported by the intelligent people of the South, the illiterate population not of an age beyond the reach of the schools shall be brought under instruction.

In some quarters, where there is a large negro population, the cost of compulsory education is urged as an objection. But it would seem that as the negro is to be here, he ought to have the right sort of training. It is probable that results up to this time have not repaid the amounts spent, but this is no doubt due to the nature of the education. The negro child, like the white child, needs not only the technical instruction in letters, but more, he needs the discipline and character-forming influences of the schools. In my opinion, the greatest mistake ever made by the South was when it turned the instruction of the negro in churches and in schools over to his own race. The race is in the position of the man trying to raise himself by his own bootstraps.

The inability of the South to spare as much money per capita for education as easily as the North, is very apparent, but inasmuch as the need here is so much greater, the question presents a different aspect. *Should expenditures for education be based on proportionate wealth or on proportionate need?*

Indeed, the figures of wealth, while they do offer some excuse against heavy taxes for schools, also ought to suggest a more important deduction. Let us ask ourselves, if the South had had universal education since 1870, would not the great losses caused by the Civil War have been the sooner repaired, and would not our section, in the wealth of its people, now stand a better comparison with other sections?

Though the South is still behind, the wealth is certainly sufficient for educational needs. The value of property in Tennessee

increased from \$498,000,000 in 1870 to \$1,400,000,000 in 1900. The day when any state of the South was unable to tax itself for schools for both races to accommodate all the scholastic population has passed. With a per capita wealth of \$620, Tennessee ought to spend more than \$1.50 per capita on its schools.

In Germany the tremendous stimulus of general education has caused that country to forge ahead of other European nations whose natural resources are greater than Germany's. To overcome the advantage of wealth which the North and West possess over the South, no policy would be complete without the institution of a more general and more thorough system of education of the masses, as the first requisite. To secure such general instruction compulsion must be considered.

The State's Right to Self-Protection

Argument is made that compulsory education is monarchical. It can hardly be so called, since it had its origin in this country. A second argument has been advanced against it, that it enlarges the powers of government. Even if the American precedent could not be quoted, the right to compel attendance at school might, in a republic, be defended under the general head of self-protection, along with quarantine and hygienic regulations. It has also been urged that it interferes with the liberty of parents. No more than laws punishing the parent for the abuses of the child, or for depriving it of necessities which he is able to prepare for it. In compelling the parent to send the child to school, the state does no more than to secure to the child his right. Often the objection is heard that it deprives the parent of the labor of a child, and that in some cases the parent cannot afford this, or give the child decent clothes, or pay for school books. This, in nearly all communities where compulsory education prevails, is looked after by the state. The community can much better afford to pay for clothing and books than let the child grow up in ignorance.

The state taxes all classes for the support of the public schools, whether they have children to send or not. The state owes it to these taxpayers to see that the taxes collected shall be used for the purpose for which they are levied. This is impossible unless it com-

pels the attendance of all children at school. The taxpayer then, has a right to insist on a general law, on the ground that it is necessary in order to enable the state to perform its obligation to him. But, it may as well be admitted, that something more than the passage of a compulsory educational law is necessary to secure general education. In several countries, and in some of our states, such laws have not proved more effective than voluntary education. Certainly it is essential that by a system of factory laws the opportunity of the child to attend schools must be made, and in addition there must be such a general desire for education and pride in its possession in the community as to induce a general acquiescence and co-operation in the enforcement of the law. In addition, the schools themselves must offer the best advantages. Prussia, the classic land of compulsion, provides in its school laws for an abundance of school-rooms, well-equipped school-houses, and a high grade of teachers, and her compulsory system is successful. In Turkey, Greece and Portugal, where these essentials and the education-loving population are lacking, the laws are not so successful.

The state must be protected against the dragging-down influence of the ignorant. Statistics show that the ignorant commit many more crimes in proportion to their numbers than the educated. Many more such are dependents. It is a burden on the state to prosecute crime and to maintain jails and almshouses. Vice and idleness weaken the community. A parent who permits a child to grow up in ignorance is committing an offense not only against the child but against the state.

Every consideration of the welfare of society, of good government, of the advancement of civilization, demands general elementary education, and as a corollary, more general higher education. But there will never be any material growth in educational progress until the root of the system is nourished.

Experience has shown that, while some ignorant men win success, the mass sinks into the ranks of those who do not know whence the next day's bread is coming. Countries with the highest average of education are certainly marked for the greatest progress to-day. Great as it is, our own growth in wealth does not nearly equal theirs.

The Supreme Need of the South

The economic progress of the South, the development of its splendid mineral and agricultural resources, depends more than all else on the general education of its people, and I do not exclude the negro population, though their education should be of a different character, as suited to a race which can for centuries do only the simpler labor of our section. Education must be not only such as to remove the stigma of illiteracy, but it must be adapted to promote the greatest efficiency of each race. Only one acre of cotton lands in ten in the South is cultivated. Not one-hundredth proportion of our mineral lands is exploited. We do not manufacture anything like what we consume of manufactured goods. The story of the South is of the future not of the past.

Some object to the word "compulsory." It is probably ill-chosen, but the man of intelligence is not disturbed by a word. At present we have schools controlled under the law, but the attendance is voluntary. The establishment of public schools is so universal that it has by custom become in a sense compulsory. There is no objection now expressed to the taxation of property for public school purposes. Such objections were heard years ago, but no longer. If the state is embarked in the business of educating youth, why not pass also an attendance law, so as to make the education the most general and effective? I have no patience with the spirit which opposes such regulation on the ground that it interferes with liberty. Every law does this more or less. Civilized society institutes government and government must control the individual, not only in the interest of other individuals, but in his own interest as well. Every law is compulsory.

The question you have met here to consider is bound with that of education. As the mill doors close on the child, the school doors should open. The same humanitarian spirit which would protect the boy or girl from the destructive influences of labor at an immature age, should be directed to securing the attendance of that child at school. If the child is turned out of the mills to mere idleness and vice, no good is accomplished. The state which denies to a parent the power to profit by the labor of a child too young to resist, ought to force that parent to give the child an opportunity to acquire an education. The ignorance, vice and crime of the

untutored child are on the heads, not only of the parent, but of every citizen who permits this shameful treatment of a ward of society.

Society's interest demands that the youth of the land shall be trained to become as adults integral parts of the great machinery of production, and healthy and intelligent American citizens. If by any neglect society permits them to become criminals and dependents, society alone is to blame.

Progress, I am glad to say, is being made in this movement. At a great conference attended by representatives of the factories and their employees at Nashville last year, resolutions were unanimously adopted favoring compulsory school attendance. Capital and labor here agree.

I have cited the conditions. I am a Southern man and I have pride in what has been done by my section, but I would not, out of pride, endeavor to deny that we need tenfold more zeal in application to these problems.

As I have said, I do not know that compulsory education is immediately practicable, but I firmly believe that it ought to be the end toward which during the next few years, we shall work; and when some Horace Mann or Thomas Jefferson arouses the people of the Southern states to their duty, there need be no longer any doubt of the splendid future of the South.

WHY THE CHILDREN ARE IN THE FACTORY

BY MISS JEAN M. GORDON,
Factory Inspector, Louisiana.

It seems incredible that, in this age, it should be necessary for men and women to leave their homes and private businesses, to come together to devise ways and means to awaken the consciences of other men and women, and make them feel their responsibility towards little children.

George Eliot conveys the idea somewhere in her writings, if one is sitting in a room and sees a piece of bric-a-brac about to fall, instinctively the hand is put forth to try to catch it. And it does seem that every one would put forth a hand to save the little ones; but that this is not done is evidenced by the gathering of these men and women in Atlanta to-day to try to solve this vexing, disheartening problem.

The most potent reason, in my opinion, why the children are in the factory is our school system. Our present method of instruction, particularly for the boys between eight and twelve, does not interest the children. This is due to two causes: the overcrowded condition of the school rooms, especially in the middle grades, which makes it impossible for the teacher to give personal attention to the less intelligent children, and the alarming number of our children who are defective in sight, hearing, or what is even more prevalent and distressing, the debilitating effects of the adenoid growth, which saps the vitality and acquiring power to an incredible degree.

These defective children soon fall behind in their studies—the teacher has not the time to give them any personal attention or encouragement. They become discouraged and wish to leave school. The teacher sees the standard of her year's work greatly lowered through these so-called stupid children, and she encourages the little ones to leave. You must not blame the teacher, rather blame the niggardly appropriations and the lack of a true appreciation of the great value of education as demonstrated by our Southern lawmakers on this question of education.

Demand for Education

Tell me the South is too poor to educate her children and I tell you we are too poor *not* to educate them. If we are poor, it is because we have been ignorant—ignorant of the value of our great forests and streams, our mines and franchises which we sold to Northern capital. The South must have compulsory industrial education and have it now,—not ten years hence when the boy and girl of to-day have gotten away from us. If need be, stop every other improvement, such as paving and building magnificent court and jail houses. You do not need fine school buildings. Some of the finest men and women this country has ever known were educated in log-cabins. Above all, you want the teacher who has been taught how to teach, who feels her responsibility towards the piece of putty placed in her hands. It is the teacher who will make this America of ours what it should be, not the business man nor the politician.

In Wyoming, one of the states where women are just as good as men on election day, the state has said there shall be no such thing as ignorance—it is too costly; therefore, if there is one child on a mountain top too far from the district school to attend regularly, a teacher is sent to live in the home of that child for ten months, and is paid for the entire twelve months. The state recognizes the right of the child to an education, and of the teacher to a living wage. In the South, we expect a woman to go into a state of coma two or three months of each year, as we pay only for the months she actually works.

And here let me sound my note of warning to those of us who fear that under compulsory education laws the negro child will be educated. As far as my experience goes, I have yet to find a Jew or a negro child in a mill, factory or department store. They are at school, well nourished, playing out in our glorious Southern sunlight, waxing strong and fat; it is only your white-faced, sunken-chested, curved-backed little Christians who are in the mills and department stores.

The public school system must become an adjunct to the home—it must help the busy housewife, who no longer has a yard for her children to play in, but must turn them into the streets while she fulfils the many duties of the position she holds as wife,

mother, housemaid, cook, laundress, seamstress, nurse. This busy woman has a hard time keeping up with the boy or girl of ten or twelve, who, filled with the spirit natural to childhood, wants to be "doing something." The average mother fears the influences of the street and so consents to the child's entering the factory, thinking he is safer within its four walls. Never was there a greater mistake, for all the objections which can be urged against the street,—bad companionship, dust, bad language and disease—prevail in the factory, with the added nervous strain of the work and the constant standing from ten to twelve hours each day. Therefore, our schools must arrange for the defective child, the backward child and the saddest of all children, the child of parents who have not yet learned the value of education! By diversified work, directed play and proper supervision, the school must help the mother raise her child.

If the churches of this country really wish to be a vivifying, dynamic force in our daily life, they must awaken to the fact that they have not taken their share in the great humanitarian movements of the day. These have grown up outside the church. The ministers and church men and women must make their religion work—they cannot afford to keep it as they do their best clothes, only to be used on Sunday. The mill woman who knows she is overworked and underpaid is not apt to feel kindly towards a religion which preaches justice and equality for all, when she sees the men and women who fatten off her day's labors exalted to the high places.

Parental Responsibility

Another reason why the children are at work is the independence which comes, especially to the boy, from the possession of what seems to them a great deal of money, and also the freedom from home surveillance.

I put one boy of nine years out of a department store, whose mother told me he left home at 6.30 a. m., on a breakfast of coffee and bread, taking with him a half loaf of bread for his lunch and a nickel with which he bought a cup of coffee at a bar-room. As he lived too far from the night-school to return home for dinner, he played with other boys similarly situated, until eight o'clock, when they went to school, reaching home at ten o'clock. Think of a child away from home nearly sixteen hours a day—away from all home influence, all parental control! We do much talking about home influence but we do very little work towards securing it.

The boys, also, use the excuse of going to night-school as a cover to their prowling around the haunts of vice and sin in our large cities. Night-schools for children under sixteen years of age should be forbidden by law. I have no patience with any system of economics, or civilization, or Christianity, which permits to exist a condition which deprives a boy or girl of the inalienable right of an American subject, the right to a free, day-light education! There is no more pitiful sight than a lot of tired little brains and bodies bending over spelling books and sums, when they should be in bed.

The United States Supreme Court has just decided by unanimous vote, that the states have the right to legislate in favor of women and children as to their working hours, because woman is the race, and without strong, capable mothers the race becomes decadent. What chance for proper motherhood has the girl of fourteen who starts working in a factory, knowing nothing of the duties of home-making? The knowledge of cooking and housekeeping and the care of children do not drop down upon a woman by intuition on her wedding day, and there is many a heartburn as well as burnt beefsteak and soggy potato, while she learns these essentials, which should have been part of her public school education.

Ignorant parents, knowing nothing of the value of education, constitute another strong factor in accounting for the children who are in the mills. They see only that silver dollar which Dr. Adler said we have all gazed at so long and steadily that it has hypnotized us. They do not appreciate the evil effects upon the child. Out of five hundred homes visited last summer, in only five did I find it necessary or wise to pay the wage of which I had deprived the family by putting the child out of the factory. Back of nearly every child at work is a lazy, shiftless father or an incompetent mother.

The Demand for Cheap Labor

Of course, the desire of the manufacturer for cheap labor is a great incentive to the employment of children. Despite their oft-repeated statement that child labor is unprofitable, they continue to drag-net every city, town and hillside for workers. I have never been able to decide why they turn their mills into eleemosynary institutions, unless it be the same spirit which makes them insist that the healthiest occupation in the world for a young child is work in

a cotton mill. I have been tempted, after listening to the great advantages of a dust-laden, noisy, ten-to-twelve-hour work-day, to put a sign on our mills saying, "Come all ye weary mothers, bring your fretful, restless babies; here is a restful, quiet, clean, sweet atmosphere, and plenty of sunshine, with which we promise to cure any and all ills!"

I know it will surprise many to learn that the installment system is a large factor in the early employment of children. In gathering this item of knowledge, the value of the woman as an inspector was impressed upon me, for the woman factory inspector notices the household furnishings and can go into the kitchen or wash-shed if need be. Many a child is working to pay the weekly installment of \$2.50 on the piano, or the fifty cents on the green plush album or the matting with big, pink roses splashed all over it. No one approves more than I of sweet, attractive homes, and the refining influences of music, but it is paying a heavy price for these little elegancies when the future of a child is weighed against the possession of a green album. The whole principle of child labor is such an extravagant one, I marvel that the great practical American people have permitted it to continue, from a purely commercial standpoint. It is certainly a poor business policy which permits a firm or corporation to get seven or eight years' work out of a child and then turn him out upon the community, to be cared for at public expense through long years of invalidism or criminality. As long as we sit passively, content with present conditions, our civilization will remain a travesty, our much-vaunted prosperity a rebuke, and our Christianity a mockery.

THE EDUCATION OF MILL CHILDREN IN THE SOUTH

BY REV. ALFRED E. SEDDON,
Atlanta, Ga.

Recent investigations into the conditions of child labor in the cotton mills of Mississippi and South Carolina have demonstrated the supreme importance of the education of the children employed in the cotton mills of the South.

In dealing with this subject it is necessary to point out the defects in a system which has many admirable traits, and to call attention to some abuses that have crept into an industry that is the pride of our Southern States. No one who has watched the growth of the South since the war, can have failed to note the great factories that have risen in the midst of our cotton fields, adding to the wealth and dignity of this entire section of the country. In the development of the cotton-milling industry there is something more than commercial growth that challenges admiration. Many engaged in these enterprises are men of magnanimity of spirit as well as of business ability. While making wealth for themselves and their country, they have betrayed a noble regard for the welfare of their employees. The welfare work being done at the Monaghan Mills, at Pelzer, at the Victor Mills, at the Olympia and Granby Mills, and possibly at others in South Carolina; the efforts for social betterment evident at Stonewall, Wesson and Laurel, in Mississippi, are instances of that philanthropic purpose so conspicuous in some of the great business enterprises of the present day.

While paying the most cordial tribute of praise to every effort made by the mill owners of the South for the betterment of the toilers who create their wealth, some things have to be taken into consideration along with this philanthropy, before we can form a just estimate of the situation as a whole.

Not every mill is administered with business ability mingled with philanthropy. There are many mills where the business idea appears to be the controlling idea; where only such provisions are made for the workpeople as are absolutely essential; where the chapel, or the school house, built by the business corporation, is

an advertisement of a philanthropy that has exhausted itself in the effort to erect the building. There are mill communities where the people are living under sordid and degrading conditions; where the child is allowed to grow up illiterate, to become a burden and a menace to the succeeding generation.

This fact is very apt to be overlooked. Local and state newspapers, magazine writers and tourist sight-seers write and talk about the welfare work in the Southern cotton mills, until the impression gains ground that welfare work is a general feature among the Southern mills—the rule, not the exception. The contrary is the case. The factory hand often lives under such conditions of illiteracy, of severance from ordinary human interests, of ignorance of the doings of the outside world, of sordid domestic conditions, as to be unfitted for association with his fellow-citizens in other walks of life. He is conscious of this unfitness, and it wounds and degrades him. Even where it is conceded that some mills are not doing as much welfare work as others, it is supposed these will catch the philanthropic spirit, will follow the good example, and the cotton mill at length become the social savior of the South.

While not denying the value of the good example set by the philanthropic mill owners, we should not over-estimate the tendency to follow it. The imitative process is much too slow. At the present rate it will take millenniums to become universal. Meanwhile the degrading process is going steadily on and is working irrevocable havoc among the children. The children must be saved at all hazards. We dare not leave this important work to do itself.

Compulsory Education

Even the best welfare work being done among the workpeople of the cotton mills falls far short of the necessities of the case. In the South we have no compulsory education law. This leaves the matter of the child's education optional with the parent or the child. A large proportion of the people working in the cotton mills is recruited from among the thriftless, the least prosperous of the agricultural population. The man who, himself, has received no education is not apt to have any just estimate of the value of an education for his children. Not being compelled to send his child to school, he finds it easy to escape the obligation. The factory door extends

an open welcome to the child. The question of age hardly counts. If the child is under twelve, it is an easy matter to furnish a certificate of orphanage, of sickness or poverty of parent or, as is too often done, to make a false statement. The child is set to work. He is defrauded of that which is the birthright of every American child—an education. Henceforth he will be handicapped in the race of life. He is doomed to grow up to illiterate manhood. There is abundant evidence of the illiteracy of the older operatives.

We are sometimes blamed for excess of zeal in urging child-labor legislation, and are advised to wait until the good examples set by the mill owners who are doing "welfare work" shall be followed by all the others; but in view of the illiteracy of the older operatives, we cannot but feel that we have delayed too long, and that, had we educated the parents a generation ago, we should not now find so many children growing up in a condition of disgraceful illiteracy. I stood one day last December outside a spinning mill in Mississippi and entered into conversation with half a dozen "doffer boys" ranging in age from eight to sixteen years. Of these six boys only one could read; he was one of the older boys, and he was only "in the Second Reader." Within sight of the spot there was a large industrial and mechanical school, where three hundred negro children were receiving a good common school education with industrial features. The colored children are not allowed to work in the mills, and it is undoubtedly a good thing, both for themselves and their parents, for they are thus left at liberty to acquire an education and to develop physically, out in the open air and the sunshine. These privileges are debarred the poor white child, who has to spend ten weary hours daily in the hot lint-laden atmosphere of the mill, growing up anæmic, deficient in size and weight, illiterate and apt to degenerate morally.

Illiteracy

These are evils that can and do exist in the presence of the most admirable schemes of welfare work. I have had the privilege of examining personally a large number of mill children in South Carolina and Mississippi. The facts concerning some of the mills will show that many hundreds of children are growing up illiterate in the very mills where thousands of dollars are expended yearly in welfare work.

Some of the South Carolina mills were: The Monaghan, where out of 41 children examined 28 were illiterate; the Victor, where out of 8 children examined 5 were illiterate; the Grendel, where out of 13 children examined 7 were illiterate; the Ninety-six, where out of 10 children examined 6 were illiterate; the Lancaster, where out of 45 children examined 34 were illiterate; the Granby, where out of 25 children examined 12 were illiterate.

Some of the Mississippi mills were: The Wesson, where out of 24 children examined 14 were illiterate; the Natchez, where out of 24 children examined 15 were illiterate; the Meridian, where out of 21 children examined 11 were illiterate; the Stonewall, where out of 37 children examined 29 were illiterate; the Laurel, where out of 24 children examined 20 were illiterate.

Those classed as "illiterate" could not read at all or were able to read very little. In estimating the illiterates at fifty per cent. of the children employed, we are a long way within the mark.

These figures enable us to answer the question: Does welfare work in the mill communities serve the purpose of compulsory education? In view of these facts there is but one answer possible—a deliberate and emphatic "No." This answer is made with no desire to minimize or disparage the splendid welfare work being done by the Parkers at the Monaghan, Victor, Olympia and Granby Mills, and by Captain Ellison Smythe at Pelzer, and Belton in South Carolina. Many thousands of dollars are annually expended by these gentlemen, not merely in the erection of buildings, but in the payment of salaries to trained welfare workers who devote their whole time to laboring for the physical, mental, moral and spiritual uplift of the people who work in the mills. The welfare work in the South Carolina mills just named is the finest of its kind I have seen, and deserves the highest commendation. There may possibly be other mills in the South entitled to similar honorable mention. I have not seen all, and therefore cannot speak for all. The mills at Stonewall, Wesson and Laurel, in Mississippi, are also worthy of mention as providing much that is helpful in uplifting the character of the working people and in providing better environment.

But while acknowledging in the frankest and most cordial way the value of this noble work, we cannot acknowledge that it takes the place of compulsory education, or excuses the presence of children in the mill when they ought to be in school. All this

welfare work is advantageous to the child who wants to learn or whose parents desire his education; but the mill is always eager to have the child. Men may waste time, unable to find employment, but to the child, the doors of the mill are always open. The child who does not like school, the child who does not like study—and there are many such—the child who prefers the comparative freedom of the mill, is free to choose, and, in the absence of a compulsory education law, to follow his choice. That child grows up illiterate in spite of the advantages and opportunities which welfare work may bring within his reach.

The Call of the Mill

But even where there is a disposition on the part of the child to learn, the demands of the mill make very serious inroads. School teachers are constantly complaining of the way the children are taken out of school by the mill. The word goes out that the mill wants every child it can get, and straightway the classes are decimated. The fluctuating and intermittent attendance of the children is one of the chief discouragements of the teacher. In nearly every mill school, teachers speak almost despairingly of their work. They declare the impossibility of any satisfactory progress in their pupils so long as they are not permitted to pursue their studies uninterruptedly. The disparity between the school roll and actual attendance reveals the serious character of these inroads.

At Seneca, S. C., out of 110 children on the roll, only thirty-four were present at the time of my visit. The teacher said the others were in the mill.

	<i>School Enrolment.</i>	<i>Av. Attendance.</i>
Monaghan, S. C.....	160	120
Victor, S. C.	210	125
Belton, S. C.	201	169
Pelzer, S. C.	309	260
Chiquola, S. C.	134	60
Grendel, S. C.	75	60
Ninety-Six, S. C.	43	29
Greenwold, S. C.	40	28
Lancaster, S. C.	190	80

Granby, S. C., attendance was reported by teachers to be 95 to 97 per cent of the roll, but in this school there is a regular half-time system for children that work in the mill. Those who work in the mill in the morning go to school in the afternoon, and *vice versa*.

One noticeable feature about this list is that the average of school attendance is best at those mills where welfare work is done; showing that such work has a tendency to banish indifference to education.

Some have regarded the half-time system as the best solution of the educational problem in mill communities. It is probably better than no system, but it suggests some very serious objections. In the first place it is overtaxing a growing child's strength to require it to work five hours and to study four or five hours each day. Next, it is unjust to the future man to discount by one-half his opportunity for education. To make fitting preparation for the duties of mature life, the child should devote the period from six to sixteen to acquiring an education. It is the testimony of school teachers that the half-timer soon falls behind his more fortunate classmates who are able to devote the whole time to school. The backward half-timer gets disheartened and takes the earliest opportunity to drop out altogether. It is dreary work trying to learn without hope and the inspiration of conscious progress.

Results of Ignorance

Illiteracy is disastrous for both man and woman, but the burden of child labor bears more heavily on the little girl than on the little boy. This is easily accounted for. The little boy generally begins his career in the mill as a "doffer boy." His task is intermittent, allowing him frequent and long intervals for play. At the Monaghan mill, climbing poles and swings have been provided just outside the mill for these boys to use in their intervals of leisure. The consequence is that the visitor often finds a lot of rollicking, laughing boys whose appearance seems to belie much that has been said about the hard lot of the factory child. But with the little girl it is different. She is at once set to work at the spindles; she must be always on the alert. Her toil is incessant and mostly solitary. She is always on her feet, consequently becoming tired and depressed. She loses the expression of childish joy and gladness. She begins to feel and to look prematurely old. Her seniors, unwisely kind, offer her the snuff stick; she welcomes the stimulant, the more readily because it, in a way, compensates for the badly cooked and insufficient food. It is sad to see those little girls, who should be playing with dolls and kittens and learning to read and write, thus early bearing on

their delicate shoulders the burdens of life. But the loss of an education is calamitous, whether to the light-hearted boy or the heavy-hearted girl. The future has to be reckoned with in either case—a manhood or womanhood handicapped, limited, darkened and saddened by illiteracy.

I have sometimes tried in imagination to creep inside an illiterate soul. I have sometimes tried to imagine the sadly narrowed world of a man who cannot read, one to whom the comic supplement of the newspaper is the only intelligible part, to whom a library is an unassailable treasure-house, to whom the discourse of the learned is an unknown tongue; who is doomed to wander outside the glorious paradise where flourish poetry, music, science and the arts; who is humiliated by the consciousness that he is left behind in the race of life, and has a dim consciousness that somehow society has wronged him. Out of that consciousness grows a feeling of resentment, which, in times of popular tumult, is apt to break out into passionate and unreasoning violence. Of such are the hoodlums and the hooligans of our modern civilization.

At Jackson, Mississippi, I made the statement, that manufacturers did not themselves know the conditions within their own mills. My statement was met with smiles of incredulity from some manufacturers present. Yet it must be, if we are to believe what they say. One superintendent assured me that I would not find any children in his department who could not read. He followed as I examined one after another and heard the children confess that they could neither read nor write. I believe that it was with genuine surprise and sorrow that he said, "I did not think it was so bad as that. I see there is something for me and my wife to do among these children." In a South Carolina mill I found a very little girl attending a machine. She was so small that I inquired whether she was on the pay-roll. On being told she was, I asked her age. She replied, "Seven." Others, close by, volunteered the information that she had been steadily working at the mill for eighteen months. She could neither read nor write. She had never been to school. When I reported this case to the office of the factory, the gentleman to whom I spoke, the secretary and treasurer of the company, took down the child's name and promised to inquire into the case.

The question of the age of young children is one about which

I am constantly at variance with the mill managers. Children, to all appearances under twelve, represent themselves and are represented by their parents and employers to be over that age. If indeed they are as old as represented, it is but too obvious that they are engaged in toil that robs them of normal growth and weight; but the irresistible conclusion is that children are taught by their parents to lie about their age and that manufacturers are much too complacent in conniving at the fraud. Everywhere the teachers warmly commend the crusade against child labor. Everywhere they say they could show so much better results for their work if the children were not so often taken from school because they are wanted in the mill. One school teacher, in a factory village where the mill owners claim that they do much in the way of welfare work, spoke of the cotton mills as the "curse of South Carolina."

This denunciation, though strong, will not be unmerited so long as the cheap labor of children takes the place of the higher paid labor of the adult, leaving him to loaf around in idleness while the child, who should be in school, is doing the work of the adult. It is due to the manufacturers to say that many of them are in favor of compulsory education. This measure should be regarded as an essential accompaniment of child labor legislation. The victory is only half won, if, when we compel the young child to come out of the factory, we do not, at the same time, compel him to enter the school.

THE FUNCTION OF EDUCATION IN ABOLISHING CHILD LABOR

BY OWEN R. LOVEJOY,
General Secretary, National Child Labor Committee.

Reforms of the abuses of child labor are accomplished by two methods: compulsion and attraction. The factors in the problem are three,—the employer, the parent and the child. The beginnings of social activity against child labor in this as in other countries, have been largely by repressive measures. Perhaps this is necessarily so, though it would be unfortunate to regard them as other than initial steps.

Gradually and almost unnoticed the employment of children, many of them extremely young, has become a part of our industrial system. This was not, we believe, because of any abnormal excess of greed or cruelty, as often charged, but by the operation of a natural economic law coupled with the general lack of public recognition that America has ceased to be exclusively an agricultural country and has become intensely industrial. The sturdy farmer, merchant or professional man, who boasts himself the glorious example of all child labor because he went to work at eight years old and has been self-supporting since, for many years dominated the situation. His assumption that all child labor is to be promoted because work on the farm or in the country store, or in his father's or neighbor's office was a benefit to him, expresses the point of view of a large number of our citizens towards a system grown to such proportions that, by the latest census estimates not less than 688,207 children under sixteen, 186,358 of whom are under fourteen years of age, are in industries other than agricultural.

This report, acknowledged by the Census Bureau to be imperfect because of lack of facilities for collecting accurate data, has practically omitted some industries in which child labor is particularly involved. For example, a recent report of the Bureau of Labor in New York State shows a large number of children, some as young as four or five years, employed in the various home industries in New York City, whereas none of these children under

ten years are reported by the Census Bureau. Twelve cities are shown in the census to have 668 newsboys. None are reported for other cities. But by returns we have just received from authentic sources in thirty-three cities, there are now not less than 17,000 children engaged as newspaper carriers and newsboys, many of them as young as six and eight years of age. The City of Boston alone shows three times as many as the census reports for the entire United States.

Legislation Necessary

Obviously, with such a condition facing society, adding every year several thousand youth to the army of those unfitted for any but the most unskilled and precarious occupations, it has been necessary to seek measures that shall be more immediately effective than the tardy general appreciation of the proper use of the years of childhood. Among the first activities of the National Child Labor Committee was a careful and systematic field study in a number of sections and in various industries, of the extent of child labor and the specific conditions in which many children are employed. Although the reports we have collected frequently disprove the sensational stories of cruelty and oppression that have so often shocked the credulous, they have confirmed the convictions of school officials and other interested authorities, and the reports of serious students in earlier days. The net revelation of the various investigations has been sufficient to convince legislators of the necessity of putting a legal check on the system without waiting for a complete and scientific arraignment of the evil. The result has been that at present, in every state of the Union, with one exception, some form of legal prohibition or regulation of child labor has been enacted.

Nor have these legislative acts been adopted against the united protest of those representing the industries affected. There is a growing disposition among employers, who recognize the short-sighted policy of child employment, to seek the aid of society in bringing their competitors up to their own higher standards.

Many prohibitions secured have been chiefly based on a sense of pity for the wrongs of childhood, but more recently society is becoming conscious that her first asset, citizenship, is being weakened, and next in importance, industry is being cheapened

and impaired. These larger social aspects are being constantly made more prominent in attempts to secure legislative prohibition of child labor, or its more complete regulation. Through public interest, the beginnings of which date from the earlier activities of trade unions, women's clubs, consumers' leagues and many earnest individual workers, there have been enacted important child labor laws in the past four years in thirty-four states. In the legislative sessions of 1906-07, eighteen states enacted new laws or revised existing laws. Eight of these states are Southern. Since January 1st, 1908, important changes in these laws have passed the Legislatures of Ohio, Kentucky, Virginia, Mississippi and Oklahoma,¹ while important bills are pending in New York, Rhode Island, Massachusetts, New Jersey and the District of Columbia.

Compulsory School Laws

But despite this somewhat formidable record of legislative enactments, we must not be misled. The end we seek, namely, adequate preparation of the American child for citizenship, is not attained, but only made possible of attainment by such prohibitions; and it is significant that although child labor laws reduce the number and force an improvement in the condition of working children, the field of usefulness of such measures is limited by their repressive nature. By multitudes of people affected, whether employers, parents or children, these laws are resented and looked upon as detrimental, while a small army of officials is required to secure their enforcement against the connivance of these three interested factors.

In most instances this negative has been accompanied by positive legislation for compulsory school attendance. In all the states having child labor laws, compulsory school attendance laws have been enacted, except in Alabama, Florida, Georgia, Louisiana, and Texas. That such laws are effective is strikingly attested by the steady growth of the number of commonwealths adopting them.

In 1870 less than 5 per cent. of the population were subject to compulsory school laws. To-day over 72 per cent. are subject to these laws. But this fact is of slight significance compared with the distribution of the benefits of public education. The

¹Oklahoma bill vetoed by the Governor June 10th.

United States Department of Education in 1900 reported that over 50 per cent. of all public school pupils were in the first and second grades and were less than nine years of age; 87.5 per cent. were in the first five grades and under twelve years of age. Referring to the amazing achievement of a system of education which enrolls over 16,000,000 pupils and is maintained at an annual expense of over \$300,000,000, the Commissioner of Education in his report for 1908 says:

The mere ability to read and write indicates, however, a very slight remove from crass ignorance, and a large proportion of our people are in danger of stopping at this point. The early withdrawal of pupils from school is a fact universally recognized, although up to this time there have been few systematic investigations as to the extent and the causes of the evil. Such investigations as have been attempted relate to particular cities, differing widely in respect to growth and movement of population. It is, however, significant that they all indicate a marked decline in school attendance between the fourth and fifth school years or grades, and continued decrease thereafter.²

The findings of the Massachusetts Commission on Industrial and Technical Education have been largely quoted. They are significant of what may be expected to occur in other states at the end of the compulsory school period. In Massachusetts there are 25,000 children between fourteen and sixteen not in school, five-sixths of whom did not complete the grammar school, one-half did not complete the seventh grade, and one-fourth did not complete the sixth grade.

Deserters from School

Charles F. Warner, Principal of the Mechanics' Arts School, Springfield, Mass., made the statement that from the army of 20,000,000 children attending the public schools of the United States during the school year ending 1907, there would be at least 5,000,000 deserters before the roll would be called at the beginning of the following school year. It is of the greatest importance to discover the cause of this desertion; why there is such a decrease in school attendance after the fourth grade; why such impatience for the last day of the compulsory school period to come; what the attractive feature out of school and upon what the deserting pupils enter.

The majority of these pupils become, temporarily or per-

²Report of Commissioner of Education for the year ending June 30, 1906.

manently, wage-earners, either from family necessity or because work promises to be less monotonous and irksome than school attendance. The responsibility seems to lie mostly with the child, for out of 3,157 families investigated, 76 per cent. could give the children industrial training and would gladly do so if it were offered. In many instances the parents were found to be spending, in supplementary lessons, such as commercial branches and music, as much as the child's income.

Wasted Years

This investigation also showed that these children's wages are of little value, for they seldom receive over five dollars a week before they are seventeen, and reach the maximum wage of eight to ten dollars at twenty years of age. It is estimated that for every one going into an occupation that has any advantages for the employee, four enter a cotton mill, or become messengers or cash girls. Moreover, it is rare that one goes from an unskilled to a skilled trade. Out of the fifty cases between seventeen and twenty years of age employed in Cambridge in skilled industries, only one had formerly been employed in unskilled labor, other than errand and office work. A boy is rarely found in printing houses who was formerly employed at other work, and this is true of mechanics, plumbers, painters, glass workers, plasterers, masons, and stone-cutters. A comparison was made of the aggregate wages at eighteen years of age, of children leaving school at fourteen and at sixteen. The results showed that even with the faulty education now afforded, the child of sixteen goes from school so much better equipped as a wage earner, that in two years his earnings aggregate more than those of the child who left school at fourteen and has been working four years.

Why do children leave school for such unsatisfactory and poorly-paid employment? The reason for the desertion from school seems mainly to be the positive dislike of school life and a wish to be active. Influenced by their companions, children have a strong ambition for money of their own. Our problem is to supply the attractive power in our educational system that will prove the complement of prohibitive legislation and compulsory elementary education. A compulsory elementary education which results in such distaste for school that children prefer to enter some unskilled

labor, which wastes from two to four years of adolescence for an insignificant wage and leaves them stranded at twenty, has missed the purpose of education. Some helpful facts they may have gleaned, but there has been little influence in shaping their life and ideals. The most common deduction from the investigations made is that "many of these children would be in school if the school promised preparation for some life pursuit."

Practical Education Demanded

The history of our educational system and its perfect adaptation to earlier needs in our civilization are well known, but we might as well face the fact that it is at present class education, for the great majority of our youth enter manual trades, while our schools are in the main furnishing only preparation for professional life.

In a recent paper, Dr. Paul Hanus describes our present educational system as "general," in contrast with the excellent system he advocates. In our judgment our schools are not providing a general education but a special class education. All the dominant characteristics of the regular school method tend to train children to avoid the occupations which command the services of at least ninety per cent. of our population, while they are urged by precept and example to eagerly seek the employments of the other ten per cent. The recruits for our industrial army receive comparatively little of the time or money expended upon our public schools.

Many steps are being taken in this direction, and educators are giving their best thought to the task of adapting our public school system to the needs of an industrial society. In 1890 only thirty-seven city school systems reported as having manual training. In 1906 there were five hundred and ten. Trade schools are being instituted in many cities and state legislatures are rapidly making appropriations for industrial and trade training.

The Commission on Industrial Education appointed in August, 1906, by Governor Guild of Massachusetts, is doing pioneer work. In general, the programs suggested by various educators are excellent, covering as they do the introduction into our elementary schools of practical work with an industrial bent; the multiplication and enlargement of high schools of the manual training type; the founding of trade schools which will provide vocational training

to bridge the chasm between fourteen and sixteen, when so many enter unskilled industries; and continuation schools to serve the needs of those who have already entered industry with meagre preparation.

Anything is admirable that will make our schools a part of real life and impress upon parents and children their practical, helpful character to such a degree that the family will prefer to sacrifice the pittance that might be received for unskilled labor, in order that opportunity may be given to prepare for larger usefulness and remuneration. There are some families in which this sacrifice would be impossible because of poverty. In every such instance, in the interest of the commonwealth, the assistance must be given either by private or public aid. The question as to the limit of social responsibility is a mere quibble. When society dictates that every child shall be educated it must bear the responsibility involved.

Training the Consumer

Every such program should prepare the worker for intelligent consumption, as well as skilled production. It has been said that all our training to-day is a training for consumption. If that is true, it is a most unintelligent training. Every worker during his vocational training should have an opportunity to learn something of the demands and conditions of labor in other industries. Only so can he be fitted for intelligent democratic citizenship, for wise sympathy with fellow-workers, and for an appreciation of work, and the place of the worker in the social scheme. Workers thus trained would not tolerate the inequality of profits to the actual producer and the middle-man, so strikingly demonstrated at the recent Congestion Exhibit in New York City.

They would also demand efficient workmanship and honest service. Whatever the phases through which society may pass, the purpose of education is constant—intelligent citizenship. In a society pre-eminently industrial, the education must be along industrial lines, but if it ends merely in the acquirement of a handicraft it is a failure. Along with the industry there must be training toward lofty industrial ideals. If we could train the coming generation to revolt against shoddy, tawdry, faulty goods, we should have some hope for the steady elevation of our industries to a higher plane. The manufacturer is forced by competition to cater to the

majority demand, and quantity is the popular goal. The true craftsman who is dissatisfied with the dishonest results of the speeding which reduces himself and his fellows to machines has at present one recourse,—he can quit. What is demanded is training for the entire group to which this craftsman belongs. The very class of people who do the shoddy work buy that kind of goods. This is partly due to their cheapness, for the average mechanic cannot afford the better. But the affront to his manhood, the insult to his wife and family, the social sin he commits by taking from the hands of the merchant at any price that which is devoid of all ideals of proportion, beauty, simplicity, honesty, or reasonable utility, does not occur to him.

Choosing an Occupation

The proper training of children is the main concern rather than the effect their training is to have on industries. What is required is not that our public schools shall be called into requisition to train experts in single specialized trades in order to lift the burden of expense from the employer, but that the children shall become so alert and well developed as to be fit for a choice of several opportunities.

A note of warning might be given from the recent suggestion of a noted educator that "the last two years of vocational training would include specialized instruction in the trades appropriate to a given locality." That is legitimate, if the trades that seem proper to the locality afford a fair opportunity for advancement in skill and in wages. Otherwise, the boys and girls should be so fitted by a knowledge of other occupations that their future and the future of their children can never be dominated by what may chance to be "the leading industry" of the community. Sometimes it is obvious to careful students that the dominant industries of a community are not such as offer the best opportunity for the development of skill and for advancement to self-support. In spite of this fact, is it not true that the movement toward manual training is too prone to accept the local situation as inevitable and seek to adjust itself rather than attempting to alter local conditions? For example, the mining of coal is a chief industry in Pennsylvania, but the child of the coal mining community instead of being absolutely predestined in his industrial career, should have presented to him an industrial

horizon broad enough to enable him to choose intelligently whether he will become a coal miner or engage in some other form of employment.

Industrial Training for Girls

Industrial training for girls presents some difficulties that do not appear in the case of boys. At the present time in the United States six million women are gainfully employed. Nearly one-third (30.6 per cent.) of all women between fifteen and twenty-four are so employed. "Statistics of Women at Work," Census Bureau 1907, gives figures that are startling. In seventy-two of the seventy-eight cities with 50,000 inhabitants, more than one-third of all the girls between sixteen and twenty years of age are at work. In thirty-six of these cities more than one-half are earning their living, and in eight the percentage rises from sixty-nine to seventy-seven per cent. of the total number of girls.

Woman in industry is not a new condition. But factory production has forced her out of her home if she would continue productive processes. Formerly, women and girls in the home could, if necessary, materially supplement the family income by producing nearly all the necessities. To-day, if they contribute to family needs, they must find employment elsewhere.

This advent of women into industry outside the home has brought about serious social complications. The standard of wages has undoubtedly been lowered, so that in many instances the whole family cannot earn what the head of the family should singly. Many hold this condition responsible for the general unfitness of the wage-earning woman for family duties and responsibilities, for the outside work she enters upon rarely offers any training that would make her an intelligent consumer. What shall be our attitude toward girls in industry? If it were wise, it would nevertheless be impossible to exclude them. The place they fill is perhaps suggestive of a remedy. They are found mainly, especially the younger ones, in unskilled trades, which do not afford a living wage and give no opportunity to learn a skilled trade. At present one of two courses is open to them: to remain where they constantly lower the wages of others, or enter a home of their own untrained in any particular for that responsibility.

Girls should be excluded by law from all trades which menace

their physical or moral well-being, and thus jeopardize the interest of the home and of future generations. The trades remaining should be carefully selected on the basis of labor demand, opportunities for advancing in efficiency and remuneration, and their effect upon womanly instincts and domestic tastes. In the trades thus selected, they should receive as careful industrial training as boys. Such a course would deter them from entering industry at an age and degree of preparation which forbid their becoming skilled laborers. The unskilled trade is often more vitiating to women from the social standpoint than to men. A boy, at least, looks upon industry as a permanent thing, and rarely fails to have some regard for his fellow workmen. The girl is apt to consider it as a temporary occupation and hence cares nothing for organization or any protective measures. More even than boys, the girl requires a course of training which would make her respect industry and her fellow-worker.

Domestic Service

But side by side with preparation for the trade she chooses, there should be adequate instruction in the subjects that vitally affect the home. She should receive some knowledge of productive processes in general, hygiene, decorative art in its relation to the home, and domestic science. The excuse made for not including domestic science in trade schools now existing is that girls do not desire to go into domestic service. It is preposterous that only those girls who are willing to enter such employment should receive this training. Society, in order to serve its own ends, should expect each girl to be mistress in her own home, and if industrial training is provided at all, should embody domestic science not as a fitting for remunerative occupation, but as preparation for home making. When it does not mark a girl as having chosen to be a domestic servant, undoubtedly many will choose such instruction and go out with loftier ideals of a home and with preparation for its responsibilities. The stigma now resting upon domestic science as being something necessary to be understood only by domestic servants, should be removed. Let us give all our girls the idea that home making requires scientific preparation, or else give up the theory that the home is especially woman's work. Incidentally, this might so develop the future directors of homes that they would

bring about conditions which would make domestic service a dignified and desirable trade.

Opposition to Public Trade Schools

There will undoubtedly be serious differences of opinion between the various factors in society before our educational system is developed on the new lines sufficiently to affect the situation. Both employer and organized workers are divided on the subject of trade schools under a system of public instruction.

The manufacturer doubts the efficiency of workers thus trained. This doubt cannot be removed by argument but only by a practical demonstration of the quality of workmanship. The equipment and instruction should be such that a certificate from a public trade school would mean that its holder lacks nothing that his trade calls for, save the celerity which comes only by practice. However, there is nothing to hinder the inauguration of factory trade schools when an industry so desires. Organized labor fears that the public trade school will flood the labor market and increase the sharpness of competition for work. But, as Robert A. Woods has observed, "it is inconceivable that as a class school-trained workmen should not be even more jealous than others of all unreasonable encroachments upon their wage standard, and that they should not apply their additional training to the development of even more effective forms of labor organization than now exist."

In facing the vast problem of proper education in a democracy, all private and class interests must be forgotten in the interest of the social good. Undoubtedly the manufacturer will profit by having the public, through the trade school, pay for training his recruits and bear the cost of the material now wasted by beginners. To make the employer and not the child the chief beneficiary of such a system, to make the newer education play into the hands of great industrial interests, would be a perversion of a splendid opportunity. But while this direct benefit to the employer is acknowledged, the trained worker and society in general will reap the chief advantage if industrial training is properly directed. The trained worker will cease to be menaced by the helpless and ignorant competitor, many times the child laborer, now so often the potent tool of the employer. Moreover, the trained worker, together with society at large, will reap the constant advantage of having offered for

purchase in the markets, honest products. The community will be relieved of the burden, now so heavy, of that multitude of dependents whose helplessness arises from ignorance and utter lack of training for any useful occupation. Best of all, the youth of our nation, if there is placed before them the opportunity to learn some one handicraft in its completeness, can never be crushed to the level of industrial machines. The methods pursued in this educational revolution must keep paramount the necessity of enhancing our most valuable social asset, human virtue and intelligence.

I bring this topic before you not in the expectation of adding to the wealth of suggestions already available in the program of industrial education, but that you may know that the National Child Labor Committee is content with no partial program for the elimination of child labor. Prohibitive legislation and compulsory elementary education open the door of opportunity for youth, but the education must be of such a character as to help the child by its attraction and lead him into such fields of skilled labor that in the education of his own children compulsion will cease to be necessary.

ETHICAL AND RELIGIOUS ASPECTS OF CHILD LABOR

BY CHANCELLOR JAMES H. KIRKLAND,
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We have discussed child labor within the past two or three days from different standpoints and chiefly as an economic or a social question. This afternoon we propose to look at its ethical significance. It is to be noted that all economic questions have a tendency to run into ethical questions, and that very naturally, illustrating merely the general principle that life is ethical. If conduct is three-fourths of life, then it is of small concern how automatic we make our actions from day to day; how much we develop ourselves into pieces of machinery; in the last sense, when we come to think about it, our actions are right or wrong, according as they are social or anti-social, are directed towards self as an end, or are directed toward the larger world that is outside of self. The old effort to divide life into two parts as sacred and profane has long been abandoned. We may not thus separate our days or our hours or our seasons, and we certainly cannot so separate the ordinary duties and activities. Even the ordinary labors of every-day life are under the sway of eternal laws.

The great economic problems of to-day group themselves largely around labor. These questions can never be considered from an individual standpoint. They are individual to be sure; they are private to be sure; and yet they are public as well as private, and they are social as well as individual. They concern the individual and they concern all society. They concern one group of citizens, and they concern the whole state. They are economic because they have to do with the material basis of society, and civic because they have to do with the foundations of government. They are business questions and yet they are in essence ethical questions. It is a common proverb that "business is business" and that proverb is used sometimes to discourage what is called sentiment in matters of this character. While it may be true that "business is business," it is in a larger sense true that business is ethics. The payment of debts is business and all business would be impossible without it,

yet the payment of debts is an ethical question and I suppose is about the most unpopular proposition that can be presented to any ordinary individual.

The great problems that group themselves around this labor question are the outgrowth of what has been called our commercial age, the outgrowth of that development of invention and discovery that has transformed human society within the past hundred years. This created the large manufacturing centers of the world and this created the wealth of the world; this has made steam and electricity the servants of man, has wrought one achievement after another, and transformed the very face of the earth as it has transformed human society.

Material Development More Rapid Than Ethical

I was reading a statement the other day that seemed very interesting. One hundred years or more ago, at the time of the application of machinery to industry, if some prophet could have foretold the extent to which all this was to be carried, could have seen how completely labor was to be dominated by these great inventions then coming to the front, that prophet would have dared to say, "Now at last is beginning the millennium, now at last human toil is ended, now at last poverty and unhappiness shall be banished from mankind." And yet John Stuart Mill has said that he very much doubts if all the inventions of all the labor-saving machinery in the world have lessened the hours of labor of any single individual. A great engineer said to me a few days ago, "So perfect is human machinery now that the power that is developed by burning a Sunday newspaper under the boiler of a great ship is enough to carry a ton of freight a mile." With that perfection of human machinery and human ingenuity, still there is more poverty and unhappiness and misery and division among men than ever before. All of this has kept pace, has moved right along beside our development in wealth, in science, in art. This leads men to think, it leads men to ask hard questions that they cannot answer. One thing seems to be true, and that is that human society has advanced materially more rapidly than it has advanced ethically. The driving power of human life has been a material one.

Our vital forces from a business standpoint have far exceeded the vitality and power of our ethical relations. We have made great

machines and we have cared for them, but we have killed men in the making; we have grown rich, but we have grown unhappy; we have builded great cities, but we have filled them with slums and with tenement houses. The questions as to the conduct of society are largely business questions. Some of us remember when the Louisiana lottery was up before the judgment of the people of this nation, how hard it was to answer the argument that the state required the money coming from that lottery in order to run its government. New York State is wrestling with a similar proposition in the question of gambling, and whenever these great ethical propositions come up, the answer to them, nine cases out of ten, comes from the realm of materialism; from the low basis of commercialism. For that reason it is very good sometimes to go back to the ethical basis of life. Therefore I lay down two or three general principles that I think we may accept and the acceptance of which, in my opinion, will do something to clear the atmosphere in the discussion of this whole question of child labor.

The Measure of Social Wealth

The first proposition is that the nature and aim of human labor is not human wealth but human weal; that society is interested in well-being more than well-living; that the end of civilization and the test of civilization are not in commercial statistics, not in the populations of states, not in the amount of manufacture, not in the wealth per capita, but in the character of citizenship and in the strength of the manhood and womanhood of the people.

I do not suppose we could give accurate statistics with regard to the production of the silver mines of Laurium to-day, but the schools of the Greek philosophers and the little State of Athens still rule the thought of the world. Cræsus does not cut much figure any longer in the markets of the world, but Socrates still plays a part. Our American life needs to take this lesson to heart.

We who boast of our citizenship; we who boast of the progress of our country, and who as loyal American citizens dream of the future that we shall complete in the march of events, we need to remember that our glory will not be in our population, that it will not be in Wall Street or in the strength of our banks, that it will not be in skyscrapers and the wealth represented by them, but if our glory is to be permanent it must be in the character of American citizenship.

Protection of Children Paramount

And I dare lay down another fundamental proposition on this topic. There are some duties that the state may neglect; there are some duties that the state may postpone, but a state may not neglect, may not postpone, its interest in protecting and developing the childhood of that state.

We are not so much concerned as we sometimes think we are as to our navies or our armies. It is a good thing to have a navy, especially if you happen to get into war, but we get up a great deal of unnecessary sentiment on these matters. For the past few weeks we have discussed the proper armor line of the great battleships, and yet every one of those battleships will probably be put on the junk-heaps without having an opportunity to settle that question by experiment. We develop a great amount of spectacular excitement over some question that is remote, as what will become of the Philippine Islands fifty or one hundred years from now, but we are disposed criminally to neglect the questions that lie immediately at our doors. That is why we see childhood, the childhood of America, sacrificed while we are debating over some abstract proposition. The state has no higher duty than the duty to care for its children; to protect them, educate them, provide means for their development; and that is the only issue where failure on the part of the state is absolute and without remedy. There is no salvation anywhere else. States may have divergent views about the tariff. One state may be for free trade and another for protection, and both may alike prosper. One state may be a military state, and another a peaceable state, and both be alike prosperous. They may have conflicting ideas on a great many propositions, but on this one proposition there is no room for division, no room for argument. The state that does not look after the children of the state is inviting its own destruction.

Individual Responsibility

The last proposition I lay down is this: that what is the duty of the state, what is the duty of society, becomes the duty and responsibility and privilege of the individual, not to be shirked by putting it off on some abstract organization that we call society or that we call the church or that we call the state. The funda-

mental difficulty of this whole proposition has been the lack of public interest in it. Why is it that we cannot have proper laws on this question of child labor? Is it because our students of economics are too ignorant to make suggestions to us? Not at all. Wise suggestions have been made over and over again. We know what a good child labor law is. Is it because our manufacturers so control things that we cannot have legislation? On the contrary, many of them are willing to enter into the support of reasonable legislation, and those that are not willing constitute but a small minority in society, and have no power of controlling the legislation of the state. The reason we have not a better condition of things in this country is that the Christian men and women of Atlanta and Nashville and New Orleans and every Southern city, and every city in this country, do not care for these things and are indifferent as to their children. This state of things will not be remedied except under the compelling law of human interest, and when we want these things we shall have them. My proposition, therefore, is that it is your duty and my duty to busy ourselves with the ethical concern of the state. It is somebody's business to take an interest in these things; it is somebody's business to say to capital, "You may mortgage the streets of our cities; you may bond our railroads; you may syndicate the water that we drink; you may lay hands on the very air that we breathe, but you shall not mortgage the childhood of this generation; you shall not blight in earliest bud the manhood and womanhood of the next generation."

We want the church to be busy about this matter. It will be a better thing for the churches to do than running the Wednesday night prayer meeting. We want the state to be busy about this. It will be a great deal better for the state to do this than to be holding some great political convention where the only serious proposition is whether one man shall go out and another man shall go in. We want the state to build its school houses, to build them all over the land, and to put the flag of our country above them, and we want the churches to build chapels and Sunday-school rooms and ring out the chimes from every steeple, and we want both state and church to cry out with the cry of that Master of men and lover of children, "Suffer the little children to come unto Me and forbid them not, for of such is the Kingdom of Heaven."

THE DUTY OF THE PEOPLE IN CHILD PROTECTION

BY HON. HOKE SMITH,
Governor of Georgia.

Our chairman has referred to Socrates and Cræsus, and in a manner to cause us to admire the one and to be careless of the other. I have no doubt that even during their lives Socrates enjoyed privileges and experienced forms of pleasure that were shut out to the cold and selfish career simply of money. If we are to serve our God, our country and our fellowman, if that is our highest duty, how can we find anywhere the union of all three of these services so completely blended as when we seek to train our children and the children of our country mentally, physically, morally and spiritually?

When Solomon told us that we must train up a child as he should go and afterward he would not depart from the way, it was a solemn admonition; it was broad language which he used. It contemplated that when we care for the child, we must look after the physical child as well as the mental child; we must look after the moral child as well as the spiritual child. We have our school houses, especially devoted to training them in books; we have our Sunday schools, especially devoted to training them in the Bible. If we take off either of these lines of instruction, their work will be defective. You cannot lead a man to the true conception of spiritual truths, or to any faith in you as a spiritual leader, if you are content to see the man's mother in want and his wife and children hungry and naked. The work of the pulpit cannot accomplish its highest end, it cannot produce its richest fruit, if it is to be limited to that to which I have just referred, modern evangelization. It must be broadened into a conception of life of the present as well as of the future, of the things that surround man here on earth; and the pulpit must teach, as to the child, not simply the spiritual state, it must also consider the responsibility of adults for the mental, physical and moral side of the child as well as the spiritual.

Symmetrical Training

There can be no complete development of child or of man on simply departmental lines. His training must cover, if it is to be

genuine and complete, the full characteristics and qualities that go to make a useful man or woman. When we contemplate the work in the protection of children, we must realize that for that work to reach its proper place, public sentiment must be applied and people must understand what is necessary for the mental development; what is necessary for the physical protection; what is necessary for the moral growth, as well as what should be taught for the spiritual future of the child.

We have in our country a great organization of men called "The Laymen's Foreign Mission Brotherhood." Against it I utter no criticism. About it I have nothing to say but praise. But I cannot help feeling that the boys and girls of *our own country* need something, too. I cannot feel that it is necessary to cross the great Pacific and mingle with the yellow and brown skins and the black skins in Africa, to have something so far off that it has to arouse the imagination, before we can bring to our heart real joy and serve our Maker as faithful children, while right here at our homes, by our firesides almost, there are flaxen-haired boys and girls growing up starved mentally, starved physically, starved morally and spiritually.

If we expect to do for these children all to which they are entitled, if we expect to render them full service, then we must teach the people, we must let them understand. I do not believe the men and women of this city or state or nation are careless about the welfare of their fellows. I do not believe they really are more interested in a little Korean or a little Chinaman than they are in the Caucasian right in our own town. It is because the one has been taught them and talked to them in season and out of season, and the other has been neglected; not often referred to in the pulpit, not often referred to by laymen's organizations. They are simply forgetful and unconscious of the opportunities right at the very gates of Jerusalem. The time has passed when any man can raise the objection, when legislation, state or national, is proposed to help the child, that paternalism is threatened. It is not paternalism that he is so much afraid of, it is too much patriotism. The states will readily respond, if the people only understand.

You have made great progress. The work of protecting the children from the workshop and factory has grown all over our land. It took England over a hundred years to arouse the people

of that country to the fear that they were, from an economic standpoint, destroying the power of their country by consuming the useful hours of the children's life at brutal and destructive labor. Our people are realizing it rapidly. The difficulty that really confronts us is that a small organization with a purpose is dangerous as an antagonist against the great body of people who lack organization. For this very reason it is necessary to get the people to really think. Children must be trained for the great civic responsibility that rests upon them, that they may learn to watch and know what takes place in legislative halls, and then they will be ready if a law comes before a deliberative body, to know who represent them, for the protection of their own mental and physical well being. They will be watchful and call to speedy account the legislator who is faithless to the great trust which we all carry and owe to the children of our land.

Investigation

And beyond our duty to create a wholesome sentiment, to produce an organization back of the protection of children in legislative halls, there is another great duty that rests upon us that the state cannot reach. It is the responsibility of individual inquiry; of individual investigation. Suppose it were possible to arouse the women of any city in our country to a consciousness that there are little boys and girls in homes without food, where they are growing up starved mentally while they are starving physically. Do you suppose they would wear themselves out trying to find something to amuse themselves? Oh, they would not. It is because they do not know; it is because they do not understand; it is because they have not been turned to this great work. In this city of ours, if we had the women here and they could be told the story, if we produced the machinery to furnish them the instances where the opportunity was given to go to a family in want, to a widow with her two or three little boys out on the streets at eight and ten years of age, subjected to all kinds of temptations as they help to make a living selling a paper for two pennies, and the girl in want and in danger of worse, they would go to that family with hearts full of love, to carry a charity that would help put these children in a position to prepare themselves to be independent when manhood and womanhood come.

We have no great organization of laymen in the United States with able representatives traveling throughout the country, talking in the churches and pointing the way. This is one of the people's duties, to prepare to protect all of our boys and girls against want, by fitting them mentally, morally, physically and spiritually for the responsibilities of life. I would have the pulpits used to teach these truths to the children; to teach, as I said before, something more than mere modern evangelization; to teach the doctrine of practical service, the responsibility of man for man; for we are our brothers' keepers and we cannot escape the responsibility that attaches to that fact, and we will not let our zeal flag. You will move on in your glorious work; you will gain recruits as you move; you will never weary of the task, for as well might the angel standing at heaven's gate weary of his task, when each time he swings the gate ajar, another soul is ushered into Paradise.

ESSENTIALS IN FACTORY INSPECTION

BY HON. JOHN H. MORGAN,
Chief Inspector of Workshops and Factories, Ohio.

Factory inspection and factory laws generally, if not invariably, include the child labor laws. In fact, I know of no state having a bureau organized for the express purpose of enforcing child labor legislation.

In successful factory inspection there are at least three essentials: laws, means of enforcement, and the moral support of the people. The laws should be reasonable, definite, practical, and of as high a standard as can be rigidly enforced without antagonizing public sentiment. The laws of several states composing a group geographically or industrially should be uniform; in fact, we should have uniform laws throughout the nation, not only that they may be enforced more easily, but in justice to the manufacturers carrying on the same class of industries. I would not be understood, however, as favoring a lowering of the standard of the laws of any state in order to secure this much-desired uniformity. That is not my idea of successful factory legislation. For instance, in the Ohio Valley states Illinois is the only one having an eight-hour work-day for minors under the age of sixteen years, and this law is enforced successfully. We have not tried to induce Illinois to increase the number of work hours, but have followed her example. Ohio has enacted during this session of the legislature a similar law, which will go into effect on the first day of July, this year. In fact, it is a little in advance of the Illinois law, in that it provides that no girl under the age of eighteen shall be employed more than eight hours a day or forty-eight hours a week. We hope the rest of this group of states will soon enact similar legislation.

I will not attempt to go into the defects of the laws of any state in particular. We who work in this field know the imperfections only too well. Even in the best of factory laws there is much room for improvement.

Factory inspection is a practical question, which must be

settled by experience. It need not be, however, by experience born of selfishness, and greed, and indifference. We are appalled by some public calamity, such as an Iroquois Theater fire, the burning of the Slocum, or the sacrifice of 175 children as in the fire in the Collinwood school building. These horrify and terrify us, and cause us to smart with indignation; and rightly so, generally, because these catastrophes can usually be traced to the mad rush for wealth, or a penurious false economy in construction of public buildings, or wilful negligence and indifference. But, if we would only realize it, these public calamities are a small factor compared with the vast slaughter that is going on, day in and day out among the employees in the shops, factories and mines, and on our railroads. The sorry part of it is a large part of it could be avoided by the strict enforcement of adequate laws.

In the wake of the prosperity we have of recent years been experiencing has come bane as well as blessing. Industry and prosperity have come to us by leaps and bounds; we have come to be the workshop of the world. It has been one continuous march of progress from the time the master and workman were one and the same, working to supply the needs of himself and his neighbors, on through the various stages of the small shop and factory employing a few helpers to the large establishment employing hundreds, and finally to a concentration of industries whereby thousands and thousands of employees are under the control of a corporation or trust.

Public Awakening

I have said it was one continuous march of progress, but is this true in the highest sense? Is it not possible that as a nation we have had our vision so centered on material things that we have forgotten, or are forgetting, the better things of life? Employer and employee have been so busy making money that they have had little time, and less inclination in too many instances, to give any thought to the real welfare of mankind. Neither is without fault in this connection, for I have seen as much greed manifested among workmen as among employers. Human nature seems to be about the same in all walks of life, when given full swing. The piecework system and the sub-contract have developed to such an extent that we are grinding out the very lives of our

working people. Human life is the cheapest grist that passes through our wheels of industry. These conditions have grown on us so gradually and stealthily that we have scarcely realized the enormity of the crime. In fact, we have rather accepted it as the legitimate condition of the work-a-day world.

I have referred to the sad catastrophe at Collinwood, where one hundred and seventy-five children lost their lives in a burning school building. The whole nation paused to sorrow, pity and blame. The sacrifice at one time, in such tragic manner, of so many, was what appalled us. But the sacrifice that is made little by little each day by the working children of this country, is passed almost wholly unnoticed by a majority of the people. And it is a sacrifice, for we should have legislation throughout the entire country, and the means to enforce it, that would prevent this jeopardy of morals, health, and life itself. It seems frightful to think that a people as intelligent as the Americans, cannot, or will not, read the writing on the wall, until some great public sacrifice of life is made. In cases like the Collinwood disaster, the awakening is instantaneous, and preventive measures are quickly put into effect. But it has taken us years to slowly awaken to the insidious havoc wrought in the lives of our working people by our long neglect of factory conditions, especially as they apply to young people. Recently the crusaders against the White Plague have realized how many victims are enrolled from the ranks of factory employees, and they have joined the ranks of kindred organizations in helping all they can to better the conditions.

The future of our country is not very promising unless we fully realize at an early date the responsibility resting upon us in these matters. What we need in this country is a great awakening to the value of human life, of health and of morals. We need to fix the responsibility.

One of the chief elements of success in any law is the enforcement thereof. We have learned that simply placing laws on the statute books does not remedy the evils; it is the enforcement that brings relief.

More Inspectors Needed

Very few if any of the states with regularly organized factory inspection departments have as many inspectors as are needed

to perform the work in the manner required. One of the long-standing needs in Ohio, is a material increase in the number of inspectors. We have succeeded during this session of the General Assembly in passing a bill amending the present child labor laws and providing for the appointment of eight women factory inspectors, or visitors, whose duties shall pertain to establishments in which women and young people are employed. This law, as I have previously stated, goes into effect the first day of next July. We shall then have a child labor law in force which we hope will be accepted as a standard by every state not so far advanced in such legislation, and we believe we will have the means of securing its practical enforcement. We are hopeful, however, that the present legislature will give us an increase in the number of factory and building inspectors, in order that this branch of the work, for which the department was specifically organized, may have proper consideration.

Difficulties of Inspection

The creed of the factory inspector is, or should be, Protection: protection of the life, health and morals of the workers, old and young, male and female. In this work the factory inspector occupies a peculiar position. He stands as the representative of the people, protecting the only capital the worker has—his health and morals. Therefore, to look for defects is the lot of the alert inspector. No matter how well equipped, nor how well regulated a factory or establishment may be, it is still his duty to guard against the unexpected as far as possible. To be successful he must be a practical mechanic of good habits; diplomatic in his relations with men; strong enough to demand and insist that the law be complied with, and in full sympathy with all features of the work, including the child labor laws. He should have sufficient force of character to rise above the pessimistic character of his work, or he will be lost; he should be a real optimist at heart. My idea of successful factory inspection is to secure by frequent visits the co-operation of employers in maintaining fair conditions.

For years we have had in Ohio, a very good child labor law, as well as very fair general factory laws, and some effort has been made to enforce them, but I will frankly say we are a long way from Utopia. In my opinion, human nature is about the same on both

sides of the Ohio River, and I believe it is no different there from that in other localities. I, therefore, am at a loss to comprehend the statements of inspectors who claim that employers do not misrepresent conditions; that they have never had employers make false statements about their minor employees, and that they have the hearty co-operation of the employers of their states. We have many broad-minded, philanthropic employers in the State of Ohio—men with whom it is a pleasure for the factory inspector to do business; but we could not truthfully state that the employers all over the state give us their hearty support. In fact, we have had to fight every inch of the way, and are still fighting. We have fought for legislation, and we have contended for enforcement. Our inspectors have gone into establishments expecting to find ideal conditions as far as child labor was concerned, only to learn that the few minutes' wait at the office was sufficient to allow the children to be sent out the back way. In conducting our squad campaigns, we have had instances of a number of inspectors entering a department store a few minutes ahead of the regular inspector for the district, who is generally well known; and on the arrival of the latter, the mad rush of the floor managers to get the children out while the inspector was detained in the office, resembled a panic. When this was done they found the store full of inspectors and themselves caught in the act of trying to deceive.

The age and schooling certificates are also a source of more or less trouble to the inspector. For while we have the able, cheerful and conscientious support of some of the school authorities in this feature of our work, there are too many who cannot see their way clear to take it up in the right spirit, and this makes it difficult for both employer and inspector.

These are only slight reminders of some of the obstacles the inspector meets in his work. His position is not an enviable one. He is frequently a public target for criticism. People interested in the children want to know what the inspector is doing that so many children are allowed to work in the factories. The adult worker cannot understand why his grievances are not righted, and there is a clamor from the general public for protection in places where they assemble for learning or amusement. At present the public buildings are receiving the attention of the entire Ohio department, but

this is not always accepted gracefully as a reason for failure to keep up the factory and child labor part of our work at the same time.

Public Responsibility

But, with all this, I am hopeful that we are about to see the dawn of better conditions in every respect. Public sentiment is becoming enthused, not spasmodically, but with a steady, growing, enduring enthusiasm, and it is this which will leaven the larger part of this whole question. It is the greatest essential, in my estimation. Public sentiment is what demands laws for the good of the people, and it is public sentiment that enforces them. It was public sentiment aroused, developed and stimulated by the labor organizations, and the women's welfare and patriotic organizations, that secured the passage of the eight-hour law for minors in Ohio; and it will be this same influence that will make possible a rigid enforcement of it.

The National Child Labor Committee, representing public sentiment, as it does, in a sort of semi-official manner, is a very important factor in the solution of the great industrial problems. It represents in large measure the crystallized sentiment in this work, and it is meet that we should come together in this way to learn of each other's experiences, difficulties, purposes, and principles, to the end that we may work together harmoniously and understandingly.

The labor organizations of the country have for years recognized the evils in the industrial world, and have fought valiantly against their progress. They have endeavored to put into practice and to teach the principles of the brotherhood of man. They have tried to scatter the seeds of altruism, brotherliness, and fair-play far and wide, and I feel that some of their efforts have fallen on good ground, and in due season we shall reap the harvest. Nay, if I read the signs of the times aright, the harvest is ripening, and the reapers are gathering in great numbers. Broad-minded men and women in all ranks of life are devoting time and energy to this vital work. People of leisure and wealth; people of learning and wide experience; college students, club women, labor and patriotic and political organizations, the church and the press, have all taken hold of this work in dead earnest, and its success is assured. We fully realize that factory legislation is really only in its infancy; that its possibilities are great, and while our progress may be slow at times, it will never stop altogether. There is always a goal to be

attained, and each and every one may have his share in the result, if he will.

"There's a fount about to stream,
There's a warmth about to glow,
There's a flower about to blow,
There's a midnight blackness changing into gray;
Men of thought and men of action,
Clear the way."

THE RESPONSIBILITY OF THE CONSUMER

BY FLORENCE KELLEY,
General Secretary, National Consumers' League.

The prime responsibility of the consuming public is its own ignorance. At the close of every public meeting at which the aims of the Consumers' League are presented, people who look intelligent come to the speaker and say, "This is an entirely new idea to me. I never knew that things are as you describe them. What can we do about it?" The principal task of the League is, therefore, to enlighten men and women who are eager to do right if they can but know what is right. What then are the sources of knowledge available for the consumer to-day?

Some of them lie ready at hand. Everyone can see how small is the newsboy in the street. If, in buying papers, we give the preference to big boys, we use the obvious means to encourage big boys and discourage little ones in the newspaper business in the streets. And nothing could be more clearly our duty than this. If the public refused outright to buy papers from little newsboys as effectively as it long ago ceased to buy hair shirts and horsehair furniture, no little newsboys would be undergoing a daily process of ruin and demoralization upon our city streets.

Everyone can see, too, how big or little is the messenger and telegraph boy who comes to the home or the office. It costs only a postal card or a telephone call to protest to the management that we prefer to be served by big messengers, not little ones. Whenever enough people refuse to be served by boys as messengers, our telegrams and messages will be delivered by men as responsible and trustworthy as the uniformed letter carriers of Uncle Sam.

Everyone can see, in the stores, how big and how little are the cash children. If a child is undersized, I do not wish to be served by her, even though she may have working papers. She should be sent to the country to recuperate and attain the normal stature of a child of her age if she be really fourteen or fifteen years of age. To be served by undersized children is no better than to be served by underaged children. In both cases alike the consumer is the indirect

employer and can by no means escape a share in the moral responsibility for the employment.

When enough women act upon the conviction that girls should be in school—not in retail trade—until they are fifteen or sixteen years old, the weary little cash girl will follow the duel and the lottery into the memories of a sinful past.

The newsboys, then, and the cash children we can see for ourselves, together with the messengers and the lads who deliver goods for the milkman and grocer. The careless ordering of groceries to be delivered in homes in the evening is a source of overwork and cruelly long hours for thousands of delivery boys every Saturday night in the year. And there is the less excuse for this because these boys come directly under the eye of the housewife who is their ruthless indirect employer.

The second obvious means of getting knowledge of our unseen young servants, is the voluntary organization of consumers acting through visiting committees or executive secretaries. Thus the Consumers' League of the City of New York has had, for nine years, the same visiting committee who confer with merchants on the interesting subjects of hours, wages, seats, vacations, Saturday half-holidays, lunch and rest rooms, and all other points affecting the welfare of the young workers and the consciences of the customers who are their indirect employers.

This committee verifies and rectifies its information from the point of view of the young wage-earners themselves, by a widely ramified acquaintance in working-girls' clubs, vacation houses, settlement classes, and many other sources of information.

The National Consumers' League goes beyond the store to the factory, and in one narrow field of manufacture, that of women's and children's white stitched underwear, awards the use of its label to manufacturers who employ no children below the age of sixteen years, give out no work to be done away from their own premises, employ no one longer than ten hours in one day, and obey the state factory law.

At present it is, however, only a small part of the mass of young workers about whom we can get sufficient, trustworthy information through our own observation or by means of voluntary organizations. How then, are we to act intelligently about these other unseen young servants?

The most immediate and accessible source of knowledge, everywhere, is the educational authority. No one knows so well as the public school teachers, how the children drop out of school from the third and fourth grades to go to work.

A community without a school census is a relic of barbarism. Unfortunately, we still have many such relics, and there is no more interesting and enlightening task awaiting the inquiring consumer than an effort to get from the local educational authority an accurate knowledge of the whereabouts of the children. How many are there in the city? Of these, how many are enrolled in the schools? What are the children doing who are not enrolled? What are the irregulars doing when they are absent from school? If we honestly wish to know how far we are indirectly employing little ones who should be in the primary grades, one way to learn the truth is to insist upon full answers to these questions, each in her own community. When these answers are wholly satisfactory, we may claim to be doing pretty well in our home town. But where are the answers to these questions wholly satisfactory to-day?

In some of the states, there is a good deal of trustworthy information, in readable form, which we can get without expense (beyond the cost of a postal card) from the Department of Labor or the Bureau of Labor Statistics. In this respect, New York excels all the other states, for the Department of Labor issues monthly summaries, quarterly bulletins, and annual reports distributed promptly while the information which they contain is still fresh and valuable. From these sources we can learn, for this one great industrial state, how many children are found at work legally and illegally, exactly what provisions of the labor law apply to them, and how these provisions are enforced, how many violations of the law are found and what penalties are inflicted upon the law-breakers.

In other states, notably in Massachusetts, the Department of Labor Statistics publishes a careful study of child labor from different points of view.

Many state departments are, however, so dilatory that their facts are obsolete before they are published. This is always true when the reports are biennial as is the case in a shamefully large number of states. But belated, obsolete information is misleading and therefore, when presented as current, is worse than acknowledged ignorance.

Sometimes the official reports are so badly compiled that they seem designed to conceal the truth. This is conspicuously true in Pennsylvania, from whose reports it is impossible to learn with any certainty in what industries children are employed, what violations of the child labor law occur, by whom it is violated, or how violations are punished, if at all.

Sadder still, is the plight of the conscientious, inquiring consumer in those states which, like South Carolina and Georgia, envelop the whole subject in Stygian darkness, having no factory inspection, no truant officers, no school census, no bureau of labor statistics, no state census half way between the years of the federal census, no state department of education, no public source, whatever, of the information which we so urgently need.

The policy of these states accentuates the need for a Children's Bureau in the Department of the Interior, at Washington, from which might be sent out all that information which we have now no adequate means of acquiring.

The investigation of the work of women and children now being carried on by the Federal Department of Labor fails to meet the need for current information since its results, like those of all federal investigations hitherto on this vitally important subject, will be already largely obsolete before they reach the reader.

None of this inadequacy and failure is inevitable. When enough citizens demand current, trustworthy, readable information, the authorities will furnish it. The most urgent responsibility of the consumer is thus clearly to deal with her own ignorance by every possible means—to observe the visible working children, and to insist upon obtaining from the city, state and federal officials fresh and valid information about the unseen ones.

A modest attempt to help in this process is the publication by the Consumers' League, of the Handbook of Child Labor Legislation, which shows in compact form where the need of legislation is greatest, and what has been accomplished for the protection of the children and incidentally for the consciences of their indirect employers, the consuming public.

Having knowledge, the next link in the chain is the use of the facts. Let us give the preference in our dealing to the merchant who employs large help; let us make it commercially valuable to a manufacturer when he follows the example of the enlightened mer-

chant. Let us publish far and wide the recommended list of merchants offered by the Consumers' Leagues in the various cities. Let us make it as disreputable to be seen coming out of a store in the late afternoon, or on Saturday afternoon, as it is to be seen coming out of a saloon.

Finally, the desecration of Christmas, the association of cruel overwork with the Christmas holidays, is wholly the fault of the shopping public. There need never again be a cruel Christmas. That rests entirely with the Christian shoppers. It is their responsibility.

CHILDREN ON THE STREETS OF CINCINNATI

BY E. N. CLOPPER,

Secretary for Ohio Valley States, National Child Labor Committee.

The number of children upon the streets of Cincinnati and the conditions surrounding them do not present a problem differing in any notable respect from the situation in any other large city. The population of the city consists largely of Jews and German-Americans, both of these peoples being home-loving, law-abiding and thrifty, who almost invariably provide good homes and educational facilities for their offspring, and in this fact lies the hope for the improvement of the conditions now existing among the less fortunate elements of this city's population.

The school census for last year showed there were 110,591 children between the ages of six and twenty-one in the city; of this number thirty-five per cent were not attending any kind of school, but sixty per cent were above the age limit for compulsory attendance. Of the total number of children between the ages of six and fourteen, the compulsory period, twenty-eight per cent were not enrolled in the public schools, but as the parochial and private schools of the city instruct more than half as many children as do the public schools, it is reasonable to conclude that the number of children in Cincinnati within the age limits for compulsory school attendance who do not attend any school, is small. There are no statistics available to show the exact number.

Newsboys

As in other cities, the great majority of children engaged in following the street trades in Cincinnati are newsboys. There are about 1,900 regular newsboys in the city, of whom approximately one-fifth are negroes. The Newsboys' Protective Association was organized for these boys in January, 1907, and club rooms were provided in the downtown district. The association is supported by subscription and by the proceeds from entertainments. Certain wealthy business men of the city have guaranteed its maintenance in case of financial embarrassment. A reading room, a gymnasium

and baths have been installed and the services of a superintendent who gives all of his time to the club, have been secured. Here boys congregate in the evening and at other hours when not engaged in selling papers, the object being to get them off the street during their leisure hours. The attendance, however, is small. The present membership of the association is nearly 500, but the average daily attendance during February, March and April of this year was only 56, three-fifths of these being white and the rest colored. The attendance is greater during the school vacation period. The superintendent co-operates with the truant officers and the probation officers connected with the juvenile court, to the end that as many of the boys as possible shall attend school.

The morning newspapers are distributed almost entirely by youths and men, the boys, as a rule, handling only the afternoon papers. Except during the baseball season there is ordinarily no demand for these papers after seven o'clock in the evening, the last edition being issued at half-past two in the afternoon. Consequently the boys have their winter evenings free. But during the summer they are in the streets with the sporting editions usually until nine o'clock. The majority return home as soon as their papers have been sold, but many remain in the downtown district until late at night, some begging money from passersby, others offering chewing gum, shoe strings or lead pencils for sale, but in reality also begging, others lingering about the five-cent theatres and flitting around from place to place, generally absorbed in the evil features of the city's life. The number of girls who sell newspapers in the city is very small indeed, and officers spare no efforts to discourage and prevent the practice. In fact, the girls so employed are so few that they do not form a factor in the problem.

Children as young as five years of age sell papers in the residence districts. The branch offices of the afternoon newspapers sell to the newsboys at the rate of two copies for one cent, the children earning half a cent by the sale of every copy. Little five-year-old tots begin their careers by purchasing two copies and earn a cent by their sale each afternoon. Some of the older boys dispose of as many as three hundred copies daily, thus earning \$1.50 in two or three hours, but thirty-five or forty cents represents the average amount earned in one day. Newsboys may return all unsold copies and be reimbursed at the purchase price, but this is done only in

rare instances, for the children persist until all their copies have been sold.

The situation in Cincinnati is greatly aggravated by the policy pursued by agents of two afternoon newspapers to maintain and extend their circulation. A number of bullies are employed whose principal duty is to follow the newsboys who sell the opposition paper and threaten and harass them if they are found trying to sell more than a specified number of copies. One paper allows the newsboys to purchase ten copies of the opposition sheet, and if any boy is found with more than this number for sale, a bully swoops down upon him, sometimes strikes him if the time and place are favorable, and the privilege of selling more editions of that paper is taken away. One afternoon recently the writer stood on one of the busiest corners in the downtown district and watched this warfare. Several boys were there, selling the final edition of one of the two rival newspapers. Suddenly a small band of young men, all negroes, appeared with copies of the other paper and instead of entering into fair competition with the boys, deliberately got in front of them and harassed them wherever they went, to prevent their making sales. They even drove away a crippled boy who had been hobbling around on crutches, trying to sell a few copies. They did not dare strike the boys, as the place was too public, but they succeeded in curtailing their sales. The circulation manager of one of these newspapers, when questioned regarding the matter, admitted that he had in his employ five bullies, but claimed he had been obliged to resort to such methods in self-defense, as the other paper had instituted the practice and employed a larger number. The circulation manager of the other paper, when asked about the matter, declared that those were conditions that obtained years ago and that nothing of the kind was done to-day. The effect of such treatment upon the developing minds of boys can well be imagined, and it is to be hoped that these newspapers will soon adopt a policy fairer to the boys and worthier of the journalistic profession.

Formerly every newsboy had a badge bearing a number, and his name and address were recorded in the newspaper office so that assistance could be rendered if necessary when a boy fell ill or met with accident or other misfortune, but the badges have been lost and the effort abandoned. The following statistics, covering four hun-

dred newsboys, it is believed fairly indicate the conditions surrounding the entire body of these little business men in Cincinnati:

<i>Nationality.</i>	<i>Age.</i>	<i>No.</i>	<i>Domestic Condition.</i>	
American, white.....	7	3	Both parents living (including	
colored	8	10	step-parents)	302
German	9	21	Father dead	59
Jewish	10	36	Mother dead	22
Irish	11	49	Both parents dead	16
Italian	12	79	Married	1
English	13	63		—
Dutch	14	52	Total	400
Hungarian	15	26		
Indian	16	21		
	17	16	<i>Education.</i>	
Total	18	9	Attending school	322
	19	6	Not attending	78
	20	4		—
Over 20	5		Total	400
			Total 400	

The minimum age limit at which a child may be employed legally in any gainful occupation in Ohio is fourteen, and in this connection it is interesting to note that of the four hundred newsboys, two hundred and sixty-one are under fourteen, and that the age at which the maximum number of boys engage in selling newspapers is twelve. This holds for both white and colored boys. Of the white newsboys, twelve per cent are not in school, but twelve of the number are over sixteen years of age, leaving only eight per cent of the entire number of white boys who are under sixteen and not in school. Of the colored boys, thirty-eight per cent are not in school, but twenty-eight of the number are over sixteen years of age, leaving fourteen per cent of the entire number of colored boys who are under sixteen and not attending school.

The number of orphans and half orphans among these children is far less than is generally supposed. But the presence of both parents in the home is not always a guarantee of happiness to the child. One little fellow said his brother and sister didn't stay at home, and he didn't know where they were. Another said his parents lived elsewhere, and that he had been left with relatives. In another case the parents had been separated and the children

were living with their mother in two rooms. One boy said his father had left home when he was a baby, and that he sold papers and helped at home. Another boy's father had run away six years ago and had never been heard from since. The father of one was in an asylum for the insane. In another case the boy's father had left home, the mother had married again and now conducts a saloon, the bartender being her second husband. One case was found where a family of five persons occupied two rooms; another where ten lived in four rooms; and another where seven were cooped up in three.

There are about ten thousand Italians in the city, the majority being Sicilians, and the average number of children in a family is four. The experience of workers among these people has shown that the Italians are much more careful of the welfare of their children, and especially of their daughters, than is generally supposed. They do not allow their girls to go to work anywhere unless two go together, and if there be no suitable companion the child must remain at home. Nearly half a century has elapsed since the city hospital was built, but in all that period, the records, it is said, show not a single Italian girl ever admitted into the ward where disreputable characters are treated. The Italians seldom if ever desert their children, but they have not yet learned that the school is a better training ground than the street.

Fruit Vending

Almost all the Italian children who work are engaged in fruit vending or basket selling. In a canvass of 77 Italian children, the distribution among various occupations was as follows:

Fruit venders	44	Bootblack	1
Basket sellers	13	Organ grinder	1
Newsboys	8	In shooting gallery	1
Delivery boys	3		—
Odd jobs	2	Total	77
Errand boys and girls.....	4		

Of this number, 55 were Sicilians, 15 Neapolitans, 5 Genoese, 1 Lombard and 1 Calabrese.

Of the 44 fruit venders, 24 were boys and 20 were girls; 41 were attending school and three were not; one was an orphan; the

average age was thirteen; the average daily amount of sales, \$1.42; the average number of hours devoted daily to this work five, part of the time being before school but most of it after dismissal, the hours ranging from a minimum of three to a maximum of seven daily. The three children who were not attending school were aged respectively twelve, thirteen and fourteen years; the twelve-year-old boy was found to be working ten hours daily, in charge of a fruit stand in front of his father's store, his mother is demented, his father is old, the boy is the eldest child in the family and gives all his earnings to his parents. The thirteen-year-old boy was working with his father, pushing a fruit cart from eight to ten hours a day, but, as with practically all Italian children, he was not allowed to handle any money. The fourteen-year-old boy was found pushing a cart and tending a stand in market, working twelve hours a day, his sales amounting to \$3.25 on an average; this boy maintains a family of five persons, his younger sister is blind and his father is dead.

The ages of these little fruit venders are as follows: Seven years, 1; 9 years, 2; 10 years, 3; 11 years, 1; 12 years, 14; 13 years, 20; 14 years, 3. Total, 44.

The majority of Italian children engaged in this line of work tend stands in front of their parents' stores, and when anyone stops to make a purchase, the father or mother is called to take the money. One ten-year-old boy works six hours daily in the market, part of the time before and part after school, there are six children in the family and one is a deaf mute. A thirteen-year-old boy works four hours out of school daily and eighteen hours on Saturday, tending a stand in front of his father's store and driving a fruit wagon. Another boy of the same age works seven hours daily besides attending school, and on Saturday he rises at five in the morning and retires at a half hour before midnight, his sales on this day amounting to three dollars. A little girl of eleven years tends a fruit stand five hours daily and also goes to school; she has two brothers over fifteen years of age who cannot read.

Other Trades

Of the thirteen basket sellers, nine were girls and four were boys. Their ages range from nine to thirteen years. All were Sicilians, there were no orphans among them, and all were attend-

ing school. Their average age is eleven, average daily amount of sales eighty-five cents, and average number of hours devoted daily to the work four, part of the time before and part after school. On Saturdays these children work in the market from fifteen to eighteen hours, their sales then amounting to about three dollars.

The errand boys and girls earn on an average thirty-four cents per day during an average time of three hours. Two do not attend school; one of these is a little Lombard girl of thirteen years whose parents are separated. The other is a Sicilian boy of fourteen years who is small for his age, has just withdrawn from school and works six hours daily, his father is insane and has five children. This little fellow is the eldest child, and is soon to take a position in a tailor's shop as an apprentice at a salary of \$4.50 per week. The one organ grinder found is thirteen years old and works two hours before school and again after school and all day Saturday, usually collecting from \$2.50 to \$3.00 on the holiday. The attendant in a shooting gallery is a Genoese boy of twelve years who works four hours daily besides attending school, and on Saturday and Sunday gives all his time to helping at this business, taking in as much money as his father does.

A little boy eleven years old was found who earned about three dollars a week working at anything he could find; there are five children in the family, the father is dead and the mother cannot speak English; this little boy attends school and works five hours daily.

Messenger Boys

The messenger boys are in the employ of the two telegraph companies and the postmaster. The Western Union boys in Cincinnati number 100, their ages range from fourteen to twenty years, the majority being over sixteen. All are white and many different nationalities are represented among them. There is a day and a night force, those on the latter work nine hours and are over sixteen years of age as required by law. Some of the boys on the day force take courses at night at the Young Men's Christian Association. The night boys are paid a regular salary of \$20 per month, the day boys are paid according to the piece plan and earn from \$15 to \$35 per month, the amount depending upon the individual and the energy put into the work. Caps are furnished by

the company, but the boys purchase their own uniforms, paying for them on the instalment plan, the company claiming that the boys take much better care of them when the transaction is made on a value received basis.

The American District Telegraph boys number 60 in this city. Their ages range from fourteen to nineteen years, the majority of them being fifteen and sixteen years old. The average number of hours the boys work during the day is seven, and they are paid according to the piece plan. The night force numbers six; they are all over sixteen years of age and work seven hours. American, German, Irish, Roumanian, Russian, Canadian, Jew and several other nationalities are represented. All are white boys and all have homes of some description. It is an interesting fact that in the company's experience the employees who came from boys' homes all were troublesome and had to be dismissed, while those who came from the House of Refuge and others recommended by the juvenile court were found to be good and reliable. These boys have caps and badges but no uniforms; they pay for their caps and the sense of real ownership tends to make the boys take better care of them. The American District Telegraph boys are paid every two weeks, the largest amount of earnings on record for this period being \$19 and the average being \$10, or \$20 per month. Frequently from eight to ten high school boys are employed on Saturdays and Sundays in place of regular boys, who thus get a holiday.

When either company is charged with the delivery of a message or a package to a house whose character is known or believed to be questionable, one of the older boys is detailed to carry it, but it often happens that a call for a messenger is received from a hotel or a drug store, and the company supplying the boy is ignorant of the destination of the message or package to be delivered until the boy returns to the office and reports. In many such cases the messenger is sent to a house of ill fame. The law forbids a boy to enter such a place, and he is ordered to deliver his message at the door and then leave, but nevertheless such a situation is full of peril for him.

Other temptations assail the messenger boy in his work, and are frequently yielded to. The old practice of raising the amount of charges on the envelope of a telegram is notorious, and is still an ever-present problem to the companies. When a boy has been detected in this petty crime and is questioned about it, he too often

adds to the one misdeed the other and equally grievous one of lying. Then he is dismissed and the odds against his recovery of good standing and self-respect are heavy indeed.

The postmaster of Cincinnati employs forty boys as special delivery messengers. They are not under the rules of the civil service, and their only duty is to deliver letters bearing the special delivery stamp. They are from fifteen to twenty years of age, most of them being seventeen years old. Nearly all are Americans and Germans; eight are colored. One requirement for appointment is that the applicant must have a home, consequently the domestic conditions surrounding these boys are, as a rule, good. Each boy is paid eight cents for the delivery of every letter, and his average monthly earnings amount to \$24. At the city post office there are thirteen boys on the day force and their hours are continuous from seven in the morning to three in the afternoon. They either bring their lunches with them or are allowed a few minutes, usually ten, in which to get something to eat at a nearby restaurant. The night force also numbers thirteen, and the hours are from three in the afternoon to eleven at night; the same arrangement as to food applies to this force. The other fourteen boys are employed at the substations, their hours being from seven in the morning to six in the evening, with two hours off for lunch, and several intermissions occurring at intervals amount in all to one hour, making the actual working time eight hours. Three of these boys are taking correspondence courses.

Investigation into the cases of forty-one delivery boys revealed the following conditions:

<i>Age.</i>		<i>Nationality.</i>	
9 years	1	American	24
10 years	2	German	11
11 years	2	Italian	3
12 years	7	Irish	2
13 years	8	Hungarian	1
14 years	6		—
15 years	7	Total	41
16 years	7		
17 years	1		
	—	<i>Education.</i>	
		Attending school	25
Total	41	Not attending	16
			—
		Total	41

These boys are engaged in going about the city on foot, on street cars and wagons, delivering goods for department stores, millinery establishments, jewelry stores, grocers, florists' shops, tailor shops and shoe stores. Many deliver newspapers and periodicals to regular subscribers, and receive regular pay from the men who control routes. Their earnings range from sixty cents to \$5.00 per week, those who attend school working on an average two and one-half hours daily and making \$1.90 per week; those who do not attend school work on an average ten hours daily and earn \$3.95 per week. The earnings of those who attend school amount, in proportion to the time devoted to the work, to nearly twice as much as the earnings of those who are out of school. Some are paid at the rate of 10 cents per trip or per bundle delivered, others by the day, but the majority of the regular employees receive their wages at the end of the week. One jeweler employs a boy of fifteen years ten hours a day, pays him \$5 a week and fines him whenever he is late in delivering parcels. Those employed on delivery wagons work from ten to twelve hours daily and on Saturday until nine or ten o'clock at night. The handling of heavy packages is a real hardship for some of these boys; take, for instance, a thirteen-year-old lad who carries large bundles of paper for a wholesale paper house from one building to another after school hours, work which can hardly be termed "healthful exercise"! Several twelve-year-old boys receive \$2.50 each for working four hours daily after school and on Saturday, carrying heavy bundles of clothing from tailor shops to finishers, deprived of almost every joy of childhood and forced within the narrow confines of premature labor by their ignorant and greedy parents.

Cincinnati's public school system includes a school for truants, to which are sent boys charged with truancy, incorrigibility or "non-adjustability." About forty thousand children are enrolled in the public schools of the city, while the enrolment in the school for truants is thirty-three. The school was opened for the first time in September, 1907; it contains a gymnasium, baths, a wood-working room and recitation rooms. A dormitory accommodating ten boys has just been added to the other features of this school. In this institution efforts are made on humanitarian principles to bring these boys to a proper realization of the possibilities involved in their behavior and to inspire in them some degree of ambition

toward worthy citizenship. Under the old system, many of these boys would have been lodged in jail; now they are given another chance in a better environment to learn their duty to society.

The law in Ohio provides that no child under fourteen years of age shall be employed in any gainful occupation; that children between fourteen and sixteen years of age, before securing employment, shall obtain from school superintendents certificates to the effect that they have successfully completed seven specified studies of the primary course, after having presented documentary evidence of age, or if unable to read and write English they may not be employed unless they attend day or night school during employment; and that no boy under sixteen or girl under eighteen shall be employed in any gainful occupation more than eight hours a day before six o'clock in the morning or after seven o'clock in the evening. The eight-hour provision will take effect July 1, 1908.

All this is good, but it is not enough. Some method must be found to apply this law practicably to the street trades of the large cities. Complete protection must be afforded every child under fourteen years of age. Even so, we cannot grant that society has fulfilled its entire obligation. Children fourteen and fifteen years of age are too young and undeveloped to take up such burdens of life, and may the day soon come when the minimum age limit for employment in gainful occupations shall be raised from fourteen to sixteen and the state make all necessary provision for the care of the few children who would otherwise be forced into premature toil because of their unfortunate circumstances.

Reports from State and Local Child Labor Committees

REPORT FROM CITIZENS' CHILD LABOR COMMITTEE OF THE DISTRICT OF COLUMBIA

The agitation to secure the enactment of a child labor law for the District of Columbia has as yet produced no tangible results. A bill for the regulation of child labor was introduced at the last session of Congress, and was under consideration at the time of the last annual meeting of the National Child Labor Committee. This bill was finally talked to death by its opponents, and the session closed with the District of Columbia still retaining its unenviable distinction of being one of the few jurisdictions in the United States without any law for the regulation of child labor.

Early in the present session of Congress the bill advocated at the last session was again introduced into both Houses. No action has as yet been taken by the House of Representatives. In the Senate, Mr. Dolliver, chairman of the committee on education and labor, has made a favorable report on the measure, and it is at present the unfinished business on the Senate calendar. Consideration of the bill has already been twice postponed in order to enable Senator Beveridge to introduce an amendment providing for the national regulation of child labor. This complication of a local problem with a national issue was responsible for much of the delay which resulted in the failure of the local measure at the last session. The local committee's hope that each measure might be considered independently will apparently not be realized.¹

During the past twelve months, three well attended public meetings on the subject of child labor have been held; the first under the auspices of the Twentieth Century Club; the second under the auspices of the Federation of Women's Clubs and the third under the auspices of the local patriotic societies of women. In addition, several meetings of smaller organizations have been held, in all of which an active interest was shown. Newspaper editorials and discussions of local conditions have appeared frequently and have been successful in directing attention to the needs of the capital city in this connection.

HENRY J. HARRIS,
Secretary.

REPORT OF THE CONSUMERS' LEAGUE OF ILLINOIS

The main practical work of the Consumers' League of Illinois for the year 1907 has consisted in its co-operation with the state in enforcing the child labor law. After the law was enacted, regular investigations were

¹The District of Columbia Child Labor Bill finally passed both Houses and was approved May 28, 1908.

made at a holiday period and at the opening of school, to learn how thorough was the enforcement and the effect of the law on attendance at school.

Much financial support has been given in employing attendants to watch and bridge over certain loopholes in the law, without which its effectiveness would have been greatly hindered; such as the year's experiment of employing the attendant for the central office representing the parochial schools, after which it was taken by the Catholic church and is now a regular part of the law's enforcement in Chicago.

The establishment of this central office was a provision of the original bill, but the bill was weakened in the committee room in Springfield by an amendment which made it possible for the principal of each school to issue certificates, thereby losing uniformity in the enforcement of the law, as well as the possibility of collecting valuable data and experience. In order to test the efficacy of enforcement, more than fifty public and parochial schools were visited in the industrial districts. The results of these investigations furnished data for conferences which were held with the public school authorities and with Archbishop Quigley. These conferences resulted in the establishment of a central office, with two representatives, one for the public schools and one for the Catholic parochial schools.

To this office the children between the ages of fourteen and sixteen, who wish to go to work, are now required to come with their parents, bringing their school record; here they are tested as to their ability to read and write. The parent's affidavit is taken and the final age and school certificate given to the child. The records concerning each child are carefully filed. These records in certain cases may prove valuable to the State Factory Inspector, and are also open for legitimate public use and inspection.

For over three years the secretary of the League has investigated the ages of all children applying to the county court for working certificates, and the court has acted upon the recommendation of the secretary in giving or withholding the required certificate.

Without this work of the secretary of the League, the part of the child labor law which concerns mostly the children of foreigners, our poorest people, would be practically ineffective, for the law does not provide any way of learning the facts regarding the ages of these children.

The secretary has regular office hours at the central office of the Bureau of Charities in the city, where, if the proof of the age of the child is easily obtainable, the recommendation may be secured; but generally it is necessary for her to visit the house of the child, and often to write to some other city or state, or foreign country; to visit the school where the child attended, and look up all records or facts obtainable, until she is convinced and feels competent to recommend or not recommend the certificate. During July and August of this year seventy-five such children were referred to her for investigation.

Glass manufacturers are proverbially open opponents of child labor legislation, and also persistent violators of laws when secured in spite of their opposition. The Alton Glass Works has long been a center of interest to those opposing child labor in Illinois. The place has been repeatedly visited

by the secretary of the League, and publicity given to conditions found. These facts were learned, not at the factory, where of late she has been refused admittance, but in the homes of the children who work in the factory and by talking with laboring people of Alton. At the time of the last visit, the secretary was accompanied by a member of the board of the Consumers' League, Mrs. Mather Smith, and also by a photographer. A change for the better was very apparent; very few small children were found, and the belief was general that the laws were much better obeyed than formerly. This was largely due to the fact that the chief factory inspector had stationed a deputy in Alton for several weeks.

At the Industrial Exhibit, held in Chicago in March, 1907, one of the largest exhibits was under the care of the Consumers' League. One booth showed the nut-picking industry in the home. Charts and pictures of children in various industries, showed their size and conditions of employment. One exhibit brought out the contrast of work of educational value, which children may do, and the mechanical and monotonous work so many are doing without an element of education. The one was shown by working students from the normal school, the other by children from one of the box factories making boxes.

At the time "Peter Pan" was presented in Chicago, the board of the Consumers' League, at the suggestion and with the co-operation of Mr. Davies, the factory inspector, was able to influence the management of the theatrical company to substitute children over sixteen for the younger ones brought from New York to take part in the play.

On July 1, 1908, the present child labor law of Illinois will have been in effect five years. From the reports of the central office, the factory inspectors and the court, it is learned that one of the most important defects in the Illinois law is its educational test, which simply requires a child to read and write simple sentences in any language. The records of 1906 and 1907 from the central office show that from the *public schools alone 1,467* children were given working certificates from the *fourth, third, second and first grades*.

Children who come through the county court sometimes receive certificates. Although they cannot read, write or understand a word of English, the law entitles them to certificates.

A weak point in our situation is that children presumably of sixteen are not required to prove their age. The result is that, in spite of care on the part of factory inspectors, children of fifteen and even younger are working, claiming that they are sixteen. These children, of course, do not secure papers in the regular way, as they claim to be sixteen, but where any question is raised on the part of the employer they can get an affidavit through some notary without proof.

The report from the central office for the public schools, for the year ended July 1, 1907, shows that 11,681 age and schooling certificates were issued to children ranging in age from fourteen years to fifteen years and eleven months.

The report further shows that 10,388 of these certificates were issued

to American children and 1,293 to foreign children representing twenty-six nationalities. The nationalities that predominate in this list are in the following order: Russian, Italian, German, Bohemian, Austro-Hungarian.

The following table shows the grades of children receiving age and school certificates:

<i>Grade.</i>	<i>Male.</i>	<i>Female.</i>	<i>Total.</i>
First	8	8	16
Second	68	43	111
Third	229	103	332
Fourth	652	350	1,002
Fifth	1,241	676	1,917
Sixth	1,609	787	2,396
Seventh	1,386	760	2,146
Eighth	1,901	1,055	2,956
Ninth	269	115	384
Tenth	50	22	72
Eleventh	4	3	7
Twelfth	1	0	1
Unclassified and Evening.....	236	105	341
Total	7,654	4,027	11,681

HARRIET M. VAN DER VAART,
Secretary.

REPORT OF THE KENTUCKY CHILD LABOR ASSOCIATION

The Kentucky Child Labor Association was organized December 12, 1906, and was incorporated February, 1907. One thousand copies of the child labor law of 1906 were printed and distributed to the newspapers, presidents of county medical societies and county judges in the one hundred and nineteen counties of the state. This old law was, however, inadequate. Children under fourteen could work if the judge could be made to believe that "there was no other means of support," and only an affidavit, sworn to before any notary, was necessary to secure employment for a child claiming to be between fourteen and sixteen years of age.

The chief work of the Kentucky Child Labor Association was, therefore, to obtain a better law. The investigations of the Kentucky Consumers' League, which had been conducted under the direction of Miss Frances Ingram, of Louisville, were taken as a basis for the needed legislation. The Consumers' League has for eight years been engaged in enforcing the child labor and compulsory education laws, and, since the establishment of the juvenile court, has assisted in investigating those cases which come to the court with requests for working papers for children under fourteen. The Child Labor Association had, therefore, but to turn to the Consumers' League to find that in Louisville alone 438 applications for these permits had been made to the court during the past year, and that the amazingly

large number of 301 had been granted; that the League had established a scholarship fund and kept fifteen children at school on it during the year; and that it was conjectured from the appearance of the children seen at work in factories and elsewhere, that there are thousands of children in Kentucky employed under the age of fourteen on perjured affidavits.

Following is a synopsis of a child labor bill which the Child Labor Association thereupon drafted for the State of Kentucky;

EMPLOYMENTS PROHIBITED.

Section One.—*Children under fourteen not to be employed:*

(A) Under any circumstances during school time;

(B) Nor at any time in, nor in connection with, any factory, workshop, mine, mercantile establishment, store, business office, telegraph office, restaurant, hotel, apartment house or in the distribution or transmission of merchandise or messages.

Section Two.—Children between *fourteen and sixteen* not to be employed in any factory, workshop, mine, or mercantile establishment without an employment certificate.

EMPLOYMENT CERTIFICATES.

Section Three.—Employment certificates to be issued by school authorities (superintendent, if any).

HOW OBTAINED.

Sections Four and Six.—Preliminaries to issuance of employment certificate are:

1. Proof of age (*i. e.*, proof of date and place of birth).
2. Filing of "school record;" *i. e.*, a certificate from the principal of the school last attended that the child has been at school for one hundred days in year next before reaching fourteen, or next before the application for the employment certificate; that he can read and write simple English sentences, and that he has had instruction in geography and the simple parts in arithmetic (*i. e.*, *through common fractions*). If school record is not obtainable, an examination on these points may take its place.

CONTENTS.

Section Five.—Employment certificates shall state:—

1. Date and place of birth of child.
2. Color of hair and eyes, height and weight.
3. And that the required preliminaries (Sections 4 and 6) have been observed.

RECORD.

Section Seven.—School Board to furnish labor inspector monthly with list of certificates issued.

HOURS OF WORK.

Section Eight.—(A) Children *under sixteen* not to work longer than ten hours a day, nor longer than sixty hours a week.

(B) Hours of work, for such persons, to begin not sooner than 7 a. m. nor to continue later than 7 p. m.

(C) In retail stores only, while the hours per week are limited to sixty, the hours for a single day may be twelve and work until 10 p. m. is permitted (in such stores) on Saturday only.

(D) Printed notice of hours of labor to be conspicuously posted.

PENALTIES.

Sections Nine and Eighteen.

I. Against Employers.

(A) For employing a child in violation of this act, from \$25.00 to \$50.00 for first offence.

(B) *For each subsequent offence*, imprisonment from 10 to 90 days or fine from \$50.00 to \$200.00, or both.

(C) For continuing an illegal employment after notice from truant officer or labor inspector, from \$5.00 to \$20.00 fine.

(D) For failure to surrender certificates when demanded, \$10.00 fine.

II. Against Officer Issuing Certificate.

For false statement in certificate, \$10.00 to \$100.00 fine.

VISITATION.

Section Ten.—The right of visitation given truant officers and labor inspector.

SANITARY REGULATIONS.

Section Eleven.—Certain employments, dangerous to health or life, forbidden to children under sixteen.

Sections Twelve, Thirteen, Fourteen and Fifteen.—These contain sanitary regulations for establishments where children under sixteen are employed.

PROSECUTIONS.

Section Sixteen.—Inquisitorial powers for investigating violations of this act given to grand juries, county and circuit judges.

Section Seventeen.—Copy of this act to be conspicuously posted.

WHEN THE ACT BECOMES EFFECTIVE.

Section Nineteen.—September 1, 1908. Act then to go into effect; *except*, that the requirement of a "school record," or in default thereof an examination, shall not be effective until September 1, 1909.

Note.—These provisions meet two predicted difficulties:

First.—The postponement to September 1, 1908, gives ample opportunity

for obtaining employment certificates for the numerous children between fourteen and sixteen now employed.

Second.—The postponement to September 1, 1908, of the operation of the educational test gives ample warning to all proposing to enter employments at the age of fourteen or fifteen that they must prepare themselves for that test; and it avoids the unnecessary harshness of suddenly requiring of children now at work a fitness not formerly demanded, and perhaps beyond their power to obtain without unreasonable sacrifice and hardship.

The effect of these provisions is that after September 1, 1909, the act will be in full operation.

Section Twenty.—Repealing clause.

This measure was presented to the 1908 General Assembly and passed. It will not be in full operation until September, 1909, because it was thought wise to get the families slowly in readiness for the enforcement of the educational qualifications; but the main feature of the law, that is, the certificates of age required of children between fourteen and sixteen, will go into effect in ninety days. The Child Labor Association and the Consumers' League will combine forces to prevent, so far as possible, unnecessary suffering contingent upon such a change as this law will cause.

ANNIE A. HALLECK,
Secretary.

REPORT OF THE MARYLAND CHILD LABOR COMMITTEE

The Maryland Child Labor Committee, while not entirely inactive during the past year, has not done much that can be covered in a report. For a short time a special investigator was employed to look into conditions in the canneries of the state, but another bad season failed to develop anything more definite than the investigation of the year previous.

No effort was made during the past winter to secure additional legislation, as it was deemed wiser to try to secure the enforcement of existing laws. After this decision was reached, the Child Labor Committee, as such, took no further action. A conference of varied interests was called together, and this group of people made an earnest effort to secure the reorganization of the Bureau of Statistics and Information, which is charged with enforcing child labor laws and other factory legislation. The conference went to Annapolis in a body and waited upon the Governor, urging the necessity for appointing a chief of the bureau for other than party reasons, and insisting upon the principle of efficiency and a constructive grasp of the problems confronting the bureau. The only apparent effect was that the Governor caused a private investigation of the bureau to be made and then requested the resignation of the assistant chief of the bureau; the former chief, who is the chairman of the central committee of his party in Baltimore County, was reappointed, and the Governor recommended the appointment of the leader of his party in Frederick

County to the position of assistant chief, which appointment was subsequently made.

The Maryland Committee is now going through a stage of reorganization, with a view to strengthening its force, and it is probable that a paid secretary will soon be employed.

SCHOLARSHIPS.

As in 1906, the Federated Charities of Baltimore raised and disbursed all funds for scholarships or school pensions for children in the city, and the State Committee investigated all applications for scholarships in the counties. During the year the Federated Charities received sixty-eight applications, finding actual need in twenty-two cases, granting scholarships in ten and securing other relief in twelve. A total of \$1,160.95 was disbursed in amounts averaging \$2.50 per week per child, to children between twelve and sixteen years who were physically undeveloped or illiterate and so could not secure a working permit, and where such children's earnings were a necessary part of the family's income.

The State Committee received eleven applications in behalf of children in the counties, but upon investigation found scholarships could not be granted or were not needed in any one case. Other relief was found necessary in two instances and was secured through a local charity organization society.

H. WIRT STEELE,
Secretary.

REPORT OF THE COMMITTEE ON CHILD LABOR AND LEGISLATION OF THE CONSUMERS' LEAGUE OF MASSACHUSETTS

For the Industrial Exhibit held at Horticultural Hall early in April in Boston, this Committee prepared three illustrated charts. One chart was a statement of the number of children in the City of Boston to whom working certificates were granted by the school authorities in 1906. The number was 4,240 and the chart showed the age of the child, its sex, nationality and the grade from which it left school to enter a working life.

The second chart gave the number of children under sixteen employed in the State of Massachusetts according to the census of 1905. The number of children was 22,389. The number in each industry was also shown. A third chart indicated the effects of the law usually called the "illiteracy law," which went into operation in January, 1906. Reports from school superintendents in the five largest textile cities showed a decrease in that year of the number of certificates granted children between fourteen and sixteen, because of the requirements of this law.

Early in November, 1907, our Committee invited to a conference with Mrs. Florence Kelley representatives of twenty-five or more societies interested in the suppression of child labor.

Mrs. Kelley showed that Massachusetts is now behind other states,

notably Illinois and New York, in child labor legislation, and urged us to remedy this by introducing three bills at the coming Legislature. A sub-committee was appointed by this conference, called the Joint Child Labor Committee. On this Committee were Miss Edith Howes, Chairman; Miss Mabel Parton, of the Women's Educational and Industrial Union; Howard W. Brown, Meyer Bloomfield, of the Civic Service House, and Mr. Hartman of the Civic League, with Miss Charlotte Price as Secretary. They prepared and introduced into the Legislature of 1907-08 two bills, House Bill 396 and Senate Bill 172. The former provided that no one should employ a child under the age of sixteen more than eight hours a day, or between the hours of seven p. m. and six a. m. This bill has not been reported yet, but there is every reason to suppose that it will be reported favorably. The latter, Senate Bill 172, provided that no person should approve the age and schooling certificate required for a working child between the ages of fourteen and sixteen, until he procured from the physician, provided for in the bill, a health certificate stating that the child had been examined by him, and, in his opinion, had reached the normal development for a child of its age, was in sound health and was physically able to perform the work it intended to undertake. The school physician was authorized to furnish such certificates, or in cities or towns where no school physician had been appointed, or where there was a vacancy in this office, a physician to be appointed by the board of health.

This bill unfortunately met with opposition on the part of certain members of the Committee of the General Court, before which it was heard, and they refused to allow it to be reported without certain amendments, one of which, in regard to the physicians who should furnish such certificates, rendered it practically worthless. As the machinery for making a successful fight in the house against this amendment was not available at this time, it was regretfully decided to withdraw the bill until the next General Court. There is reason to hope that at that time, with stronger support on the part of the public, the matter may be brought to a successful issue.

MISS C. H. PRICE,

Corresponding Secretary, Consumers' League.

REPORT OF THE MAINE CHILD LABOR COMMITTEE

The campaign for better regulation of child labor in Maine was started by the Maine Federation of Women's Clubs in January, 1905. At that time no effort was made to investigate or suppress the conditions existing. The Education Committee of the Federation appealed to the Governor to appoint a woman as factory inspector, whereupon the Governor promised to appoint a man who should do the work satisfactorily, and, failing in this, that he would appoint a woman. George Morrison, of Saco, was appointed to the position and has given satisfactory proof that the laws can be enforced.

The club women joined forces with Mr. Morrison. An aggressive campaign for new and better laws was begun, to prepare for the Legislature which would convene at the end of the year. The compulsory school law requires every child to attend school until sixteen years of age, except during vacation, unless excused by the school authorities. A thorough investigation was made throughout the state and a large number of children found at work who should have been at school. The school authorities, both state and local, were at once interested and proved strong factors in the legislative work.

The labor laws were weak, the age limit being twelve years and the certificate of age permitting the unsupported signature of parent or guardian as proof of the child's age. The first step was to raise the age limit from twelve to fourteen years and to require a certificate giving stronger proof of age. Great activity and enthusiasm were shown in the education of public sentiment in favor of these amendments. The bill, which was presented to the legislature by Inspector Morrison, had the endorsement of Governor Cobb, the Maine Federation of Women's Clubs, the various school officials and prominent people throughout the state. It seemed probable at first that the bill would pass in the form presented, but the sardine canning industries prevailed and succeeded in exempting their interests during the summer months—the season of their greatest rush. With the exception of this clause, the bill was passed as presented, and the law became effective the following September. The factory inspector began active work and has taken practically all the children out of the manufacturing establishments in the state.

In May, 1907, the State Child Labor Committee was organized to look after the interests of the children; to strengthen the activities of the inspector and to determine what improvements were needed in the law. Some of the most prominent people in the state constitute this committee, among whom are the State Superintendent of Schools and the Commissioner of Industry and Labor Statistics. Both these officials have been of great assistance in the campaigns.

There is no longer need for convincing people of the necessity of laws to protect children; but our great need is better and more effective laws to protect children from all commercialism. Our mercantile establishments need inspection; night work should be prohibited, and the street trades regulated. At present there are very few children employed along these lines, but "an ounce of prevention is worth a pound of cure," and laws to regulate these employments will be more easily secured now than later. Our work with the Legislature of 1908 will probably cover these points. In the meantime, we are quietly investigating and compiling facts for future use. With the great interest shown by the whole country in this problem, it would seem easy to influence legislation. Let us be hopeful.

MRS. ELLA JORDAN MASON,
Secretary.

REPORT OF THE MICHIGAN CHILD LABOR COMMITTEE

The child labor situation of Michigan is by no means as serious as that in other states, and the Michigan Child Labor Committee, since its organization has not entered upon an aggressive campaign. An effort will be made, however, for greater activity during the next legislative session and it is hoped that preventive measures, now being considered, will be passed successfully.

FRANK T. CARLTON,
Secretary.

REPORT FROM THE CHILDREN'S PROTECTIVE ALLIANCE OF MISSOURI

Prof. Edgar James Swift, Secretary of the Children's Protective Alliance of Missouri, reports that a synopsis of the child labor and compulsory education laws of Missouri, as amended and in force July 1, 1907, has been prepared by a lawyer and published by the Alliance in an eight-page leaflet. There is also appended to this synopsis a statement of the measures advocated by the Alliance:

1st. The simplification and codification of all child labor laws in Missouri.

2d. The extension of the prohibition of child labor throughout the whole state.

3d. Placing the factory inspector on a salary basis, with sufficient appropriation for effective inspection, instead of the present system of fees.

It is purposed to distribute this leaflet widely throughout the state. Copies will be cheerfully furnished upon application to the Secretary at Washington University, St. Louis, Mo.

REPORT OF THE NEBRASKA CHILD LABOR COMMITTEE FOR THE YEAR ENDING JANUARY 1, 1908

Organization of this Committee, consisting of forty-five representative Nebraskans, was had February 27, 1907. Three general meetings of the Committee have been held and the executive committee also met twice. The legislature was in session at the time of the organization of the Committee and its first work was to secure the passage of the law then being considered. Hard and persistent work was done by many of the members of the Committee, and the result secured in the passage and signing of our admirable bill was in no small measure due to their fidelity and to the existence of the Committee, which was called into being at the instance of the National Child Labor Committee. The influence of the Committee was exerted toward and secured the appointment of three of their number as members of the Board of Voluntary Inspectors provided for under the law, and it is to the great credit of the Committee that their administration has

been sane, firm and effective and has resulted in winning the confidence and respect of the employers generally. Rev. James Wise, a member of this Committee, was appointed Chairman of the Board of Inspectors by the Governor, and has won friends for the law in every direction. The Board has made 125 official visits during the year, which it is estimated have resulted in the return of about 1,500 children to school. At the time of the passage of the law there were about 3,000 manufacturing establishments in the state, and about 50 per cent of all the working places were concerned with the matter of child labor. At that time about 17.5 per cent of the boys of the state were employed and about 3.8 per cent of the girls of the state were at work, in all representing about 20,000 children under fifteen years of age who might properly be called breadwinners.

The present attitude of the employers is that of endorsement, and there is practically no antagonism. The Chairman of the State Board of Inspectors, Mr. Wise, and the Labor Commissioner, Hon. J. J. Ryder, unite in bearing this testimony. The Labor Commissioner says that this law is better enforced than the law governing fire escapes or that concerning the employment of women.

One of the chief difficulties just now concerns Lincoln more especially, namely, the taking of about 200 Russian children out of school before the end of the term and sending them to the beet fields of Colorado. Mr. Ryder is at work on this problem and it is hoped will be able to find a solution.

The State Committee has contributed \$10.00 toward the incidental expenses of the Chairman of the Board of Inspectors. Invaluable assistance has been rendered by the women's clubs and the Labor Commissioner. The outlook is bright and careful attention will be given by the State Committee to prevent the mutilation of the law on the convening of the legislature.

Respectfully submitted,

STEPHEN P. MORRIS,
Secretary.

REPORT OF THE NEW YORK CHILD LABOR COMMITTEE

In view of the fact that the New York Child Labor Committee—the first committee of the kind in the United States with a salaried working force—has just completed five years of active service, it may not be inappropriate at this time to mention briefly some of the things it has accomplished during this period. The most noteworthy accomplishment has been the raising of the standard of the statutes affecting working children. In 1903 hundreds of children in New York State eleven, twelve and thirteen years of age, were at work because the law accepted from their parents false affidavits that they were fourteen. Now only documentary evidence, such as the birth certificate, baptismal certificate, passport, etc., can be accepted. Messenger, telegraph, office and delivery boys, and boys engaged in the sale of newspapers, magazines or periodicals—children formerly receiving no protection from the law—are now under its provisions. Evasion of the law by scores of manufacturers who employed children upon affi-

davits alleging them to be sixteen years of age and over, when frequently two to four years younger, has been largely obviated by an amendment to the law which requires employers on demand to produce documentary evidence that children claiming to be sixteen years of age or over are actually that age. Hours of employment have been reduced from ten hours to eight in factories and to nine in mercantile establishments, and overtime work for children is no longer permitted by law. Work in factories must now cease at five p. m. instead of nine o'clock as formerly, and in stores the closing hour is seven p. m. in New York, Buffalo and Rochester, and elsewhere at ten p. m.

The Committee fully realizes that child labor laws, even the best ones, are not self-enforcing, and has therefore bent its energies during these years to co-operate with the officials responsible for their enforcement. Reference was made in the report of the New York Committee at the Cincinnati meeting, December, 1906, to the marked improvement in the enforcement of the law regarding factories by the State Department of Labor. This progress, it is gratifying to report, has continued, and there is every reason to believe that Commissioner John Williams, the successor to former Commissioner P. Tecumseh Sherman, who resigned in the fall of 1907 as head of the department, will vigorously enforce the provisions of the labor law, particularly those affecting the employment of children. The enforcement of the law relative to children working in mercantile establishments has not received, in the opinion of the Committee, anything like proper attention, by reason of the fact that this responsibility is placed upon the local health boards. The Committee is convinced that the transfer of this authority to the State Department of Labor is the only method whereby an adequate enforcement of this law can be secured.

In order to strengthen certain weak points in the law as it then stood, and to raise the standard in other particulars, the Committee conducted an active legislative campaign during the 1907 legislature. As a result, New York State has now upon its statutes a law limiting employment of children in factories to eight hours a day, not before eight in the morning or after five in the afternoon. In order to bring about a better enforcement of the so-called Newsboy Law, it was amended to place the responsibility of enforcement in the hands of the school authorities as well as the police. Other amendments were secured, strengthening the Compulsory Education Law and making more definite the evidence of age features of the provisions regarding the issuance of employment certificates.

In line with the policy of the Committee, it has co-operated in several important investigations. The most important was an investigation, entered into jointly by several organizations, of the employment of children in tenement homes in New York City. This investigation, while disclosing no great amount of new material, was important in securing confirmation of facts regarding conditions of children so employed already fairly well known by social workers. A carefully prepared report of this investigation was recently published in *Charities and the Commons*, and can be secured upon application to the National Consumers' League. The investigation, although covering but a few blocks, shows strongly the need of securing

protection of the law for these child workers. The organizations interested have not yet reached a decision as to the best plan to adopt to put an end to the bad conditions now surrounding work in the home tenements.

The Committee has continued the plan commenced in 1905 of awarding "scholarships" to children in instances where a careful home investigation substantiates the claim that the earnings of the children are needed for the family's support. Much time and effort have been devoted to this phase of our work, and a paid visitor has been employed who devotes her entire services to home and school visits and the many other details involved. The policy of the Committee to limit the scholarships only to such children in whose cases it has been clearly shown the law's enforcement is solely responsible for whatever hardship might be caused by depriving the family of the child's earnings, has been closely followed. Where it is found that the need for sending the child to work illegally is the result of non-employment on the part of an able-bodied father, or intemperance, or some other cause entirely outside of the child's relation to the family, scholarship assistance is not given, but the attention of the proper society is called to the needs of the family. The same procedure in the conduct of this work has been followed since the establishment of scholarships by our Committee. As this work has been described in detail in a little pamphlet entitled "Poverty and Child Labor," issued by the National Child Labor Committee, further particulars will be omitted from this report. The recent statistics regarding scholarships, however, may be of interest. Since the beginning of the plan a few over 900 applications for scholarships have been received, chiefly through school principals. Of this number 196 received scholarship assistance. During the year ending October 1st, 1906 (the first year of the plan), \$2,400 was expended for scholarships. For the following year the cost was \$4,300, and for the six months of the present year a little under \$2,000 has been expended. It should be clearly understood that of the approximately 700 applications which were not granted scholarships, a considerable number of these represented families needing assistance, but as such help did not come within the scope of our scholarship fund it was secured from other sources. The plan continues to receive the cordial co-operation of school authorities, and seems to be greatly appreciated by them. The money for this work was first contributed entirely by a member of the New York Committee. As the demands upon the fund have increased the additional money required has been given by individuals, church and settlement clubs and other interested groups of people.

The somewhat rigid requirements in our state with respect to the filing of documentary evidence of age in order to secure an employment certificate, as might be expected, has caused considerable antagonism to the law. School authorities, church workers, and also settlement and relief society workers in many instances, felt that these provisions of the law were unnecessarily harsh and put the parents, especially the ignorant and foreign ones, to an unreasonable amount of trouble. It was thought by the Committee that much of this feeling of antagonism could be obviated by having in attendance at the office where working papers are issued a person to assist the

parents by explaining the requirements of the law, particularly the procedure in securing the necessary evidence of age, and in general to disentangle the many snarls and help the children out of their difficulties. In September, 1907, the Committee therefore secured permission to establish a paid agent in the Manhattan office of the health department to assist the parents in the manner indicated. After six months' trial it is believed that plan has been fully justified by the results accomplished. School officials, instead of having to give under protest their valuable time in instructing the children on these points, are now glad to avail themselves of the assistance rendered by our agent, who through her experience and the information at her command is better fitted to advise the children. It has been possible to establish such cordial relations with the officers in charge of issuing certificates, that in minor matters improvements in the conduct of the work have been adopted at the suggestion of our agent. By the constant presence of such a representative, the Committee is able to appreciate better the difficulties of the work, to learn more readily how the law can be improved, and to obtain valuable information not otherwise readily securable regarding the actual enforcement of this feature of the law. So valuable an adjunct to the office has the agent become that a movement is already on foot to establish a similar agency in the Brooklyn office. It is expected when the value of the plan has been conclusively demonstrated, that the Committee will recommend to the proper city authorities that the position be made a municipal one.

During the summer of 1907 an extensive and thorough investigation was conducted regarding the employment of women and children in the canning establishments of the central and western parts of our state. This investigation was not made under the auspices of our Committee, but the results have been placed at the disposal of a number of organizations interested, including the New York Committee. The report of the investigation reveals very serious evils, particularly the employment of children in the sheds from four years of age and upwards, in many instances from early morning until late at night—sometimes until after midnight—and the employment of women workers for six and eight weeks at a stretch for seventy-five and eighty hours a week, exceeding the legal weekly restriction by fifteen to twenty hours. The report and other data upon the subject have been placed in the hands of the Governor, and his decision is now awaited before steps shall be taken towards remedying the evils either by legislation or through the courts by means of prosecutions to be instituted by the Department of Labor.

The legislative program of the Committee this season is smaller than usual, being limited to a bill to transfer the inspection of mercantile establishments to the State Department of Labor. This bill has passed the Assembly and is now pending before the Senate Committee.* It is hoped that the bill will ultimately pass, although every effort is being made by the merchants of New York City to defeat the measure.

Respectfully submitted,

GEORGE A. HALL, *Secretary*.

*Passed Senate June 10, signed by the Governor June 12, 1908.

REPORT OF THE NORTH CAROLINA CHILD LABOR COMMITTEE

While the conditions with respect to child labor in North Carolina factories are not yet ideal, one has but to glance backward at the steady growth of public sentiment and legal restriction during the past five years to see that the progress has been all that could reasonably have been expected. Until two years ago the legislation secured was the result of the strong, general sentiment of the people, acting through no organized body, but yet so definite and positive a force as to make legislators and manufacturers respect and heed it.

Two years ago, however, a strong Child Labor Committee, consisting of some of the state's ablest public men in sympathy with our cause, was organized. Bishop Cheshire, of the Episcopal Church, was chosen Chairman, the writer was selected as Vice-Chairman and Prof. C. L. Coon, Secretary.

Mapping out a plan for strengthening the then existing child labor laws, letters were sent to the leading papers of the state, and, acting on the sound theory that we can have no more useful allies than public-spirited and philanthropic manufacturers themselves, letters were sent to leading mill men, frankly outlining our policies and asking the co-operation of all who recognized the justice of our cause. The replies received, both in tone and character, were very gratifying, and it was largely by means of the co-operation of the bigger-hearted manufacturers, won to our cause in this way, that we were able to make, without opposition on the part of other manufacturing interests, the advances in legislation achieved at the session of the legislature a year ago. Perhaps a more vigorous fight might have won more, and it must be admitted that we were late in beginning our work in the legislature. Bishop Cheshire, the Chairman, and the Vice-Chairman being busily engaged, the work was taken up by Mr. J. W. Bailey and managed with tact and discretion. Under his leadership two important and some minor changes in the law were secured:

(1) The age limit was raised from twelve to thirteen years, except for twelve-year-old children employed solely in apprenticeship capacity and after having attended school at least four months of the preceding twelve.

(2) Children under fourteen were prohibited from engaging in night work, this law taking effect the first of this year.

While not directly affecting children, the growth of public sensitiveness concerning factory conditions was also illustrated by the strengthening of the eleven-hour law, making it apply to operatives of all ages instead of only to those under eighteen as formerly; and another indirect help to the cause of the factory children was the passage of a mild compulsory education law, which will almost certainly be strengthened by the next General Assembly. Looking the field over, the most serious defects in our present child labor law are these: (1) That it does not provide for an adequate system of inspection and enforcement, and (2) that we are allowing girls under fourteen to work in the mills without restrictions. I am sure that the next legislature will very early remedy these two most glaring shortcomings. The manufacturers cannot object to a thorough-going system of inspection, the

only result of which will be to protect the law-abiding mills from being put at a disadvantage by the law-breaking ones, nor can we expect successful opposition to the demand for raising the age limit for girls. The South's sense of gallantry and chivalry is not a delusion, but a definite fact that all classes must reckon with. And in view of the disastrous physical effects of the steady employment in the mills of girls under fourteen—the future mothers of the South's citizenship—not only our sense of chivalry, but the deepest consideration of humanity and patriotism call for this next most important advance in North Carolina child labor legislation. In the name of humanity and womanhood, this reform will be won; and as for other policies of our Committee, it would be presumptuous for me to speak in advance of their meeting. The conservative policy of our North Carolina Committee, while it may not seem to have won all that a more radical course might have attained, has some manifest advantages. First, we must not go too far ahead of the public sentiment, and in the second place, the co-operation of fair-minded and progressive manufacturers has silenced or discredited the opposition on the part of the other manufacturers, who might have criticized our policies as meddlesome, besides getting better feeling and enthusiasm on the whole than would otherwise have been possible.

I think the future of child labor legislation in the South is very bright. If there are two points that the South emphasizes more strongly than anything else, they are its respect for womanhood and the racial supremacy of the whites, and both of these points are so much involved in this question that there seems to be no possible doubt of the success of the cause.

I remember that last summer I spent some time with one of the big plantation owners of the South. I rode out with him one morning last July over his plantation, and saw the negro children going to school with a teacher trained in Booker Washington's School in Tuskegee, all of them given ample educational facilities. That is one side of the picture. That afternoon we went to the cotton mill, and with the older people, there came out a multitude of white children, old-looking, some misshapen, hump-backed and sallow. They reminded me more of Markham's picture of "The Man With the Hoe" than anything I had ever seen. Of course, the child labor law of Georgia is only of recent adoption, but I was told that a boy of fourteen I saw had never been to school at all. The manager of the mill told me so frankly. Well, that illustrates my point about saving the white children. If we are to give children of the colored race the advantages of educational facilities and good health and try to keep the white children bound out in cotton mills, it will mean decadence for the South, and prove us untrue to its ideals.

CLARENCE H. POE,
Vice-Chairman.

REPORT OF THE OHIO CHILD LABOR COMMITTEE

The Ohio Committee is pleased to report most satisfactory progress in the work of improving the child labor situation in this state since the last annual meeting of the National Committee.

One of the most advanced laws which regulate child labor in this country has just been enacted by the legislature of this state and will go into effect July 1st, 1908. This measure is known as the Reynolds Bill, having been introduced by Representative Reynolds, of Cleveland, and during the period of its consideration by the legislature, its passage was earnestly advocated by the Ohio Child Labor Committee and by many friends of the movement, including members of several clubs and labor organizations. The measure provides, among other things, that no boy under sixteen and no girl under eighteen shall be employed more than eight hours in any one day, and that at least thirty minutes daily shall be allowed employees for lunch. Another one of the excellent features of this law is the provision for additional factory inspectors, eight of whom may be women.

Considerable opposition to this law has developed among many of the manufacturers of the state, who complain of the eight-hour provision, declaring that business cannot be conducted successfully with a portion of the employees working eight hours and the rest ten hours. Some manufacturers have decided, it is said, to ignore the law with a view to bringing on a test of its constitutionality. It will be interesting to watch the developments of the situation during the next few months.

According to the terms of an agreement made with the National Committee, the Ohio Child Labor Committee is about to be reorganized on a basis which will afford all residents of Ohio who contribute to this anti-child labor movement, the opportunity to keep closely in touch with the work being done by both State and National Committees and have, without extra cost, the double satisfaction of helping to improve conditions in their own state and at the same time supporting the cause in all the other states of the Union. This is to be accomplished by making every member of the National Committee in Ohio a member of the State Committee also, the membership fees to be forwarded, as heretofore, to the National Committee, to be disbursed as needed in the general work. It is expected that this arrangement will result in a large increase in the membership from this state.

Respectfully submitted,

ALBERT H. FREIBERG,
Chairman.

REPORT OF THE CHILD LABOR LEAGUE OF WARREN, OHIO

Progress in local conditions is reported by the executive committee along two lines. It seems certain that some instruction in manual training and cooking will be introduced into our public schools next September. According to the last report of the investigating committee, and the report of the truant officer, no children of school age are at the present time employed illegally in factories.

During the past year, the League held two open meetings. The first

was devoted to a consideration of the physical, educational, moral and social interests of children of school age, and was addressed by a physician, the superintendent of public schools, a clergyman and the mayor. The second meeting, devoted to the subject of manual training in the schools, was addressed by one of the manufacturers, a physician, the principal of the high school and the superintendent of public schools. Various local organizations have discussed the subject of child labor, and the chairman of the League, by invitation, recently presented the subject to one of the local missionary societies.

While the League can boast of no statistical information as to the result of its work, the active co-operation of officials in the enforcement of the law regulating the early employment of children is indicative of efforts well spent.

The League has at present forty members, each of whom is an associate member of the National Committee.

Respectfully submitted,

PHEBE T. SUTLIFF.

Chairman.

REPORT OF THE PENNSYLVANIA CHILD LABOR ASSOCIATION

The Pennsylvania Child Labor Association, a federation of the local child labor organizations existing in several parts of the state, was formed in the spring of 1907. Inasmuch as the State Legislature is not in session during the present winter (1908), the organization of the state association has not yet been completely effected, each local organization being at present engaged in a campaign of education looking toward concerted action next winter.

I have been requested by the Philadelphia Committee and the Pittsburgh Association to present the following outline of conditions in our state. As reported one year ago, through a court decision declaring two sections of its child labor law unconstitutional, Pennsylvania lost almost all that had been gained by the child labor law of 1905. We sank back to the affidavit evidence of age, the notary issuance of affidavits, the twelve-hour work day and the night work exception for the benefit of the glass industry.

A bill to remedy this condition was introduced last winter by the Pennsylvania Child Labor Committee, but met with the determined opposition of the chief factory inspector, who had introduced an opposition bill allowing the notary issuance of certificates, the glass house exception for night work, and introducing what is even at present not allowed by law, a system of ninety-day special twelve-year-old poverty permits, besides abolishing the present reading and writing test for beginning work. Both the committee's bill and that of the factory inspector failed to pass the legislature. The chief factory inspector thereupon, by interpreting the existing law according to his wishes, removed the reading and writing test as a condition for the issuance of an affidavit. Fortunately the Attorney General has ordered this restored.

One bright spot during the year's history was the passage last winter of a new compulsory education law, raising the age from thirteen to fourteen years (so that it agrees with the child labor law), giving truant officers the right to enter factories, and most important of all, requiring all employers of children to report four times each year to the superintendent of schools the name, age, place of residence and parents' names of every child under sixteen in his establishment. Few superintendents yet realize the powerful instrument the law has placed in their hands, to stop child labor within their districts. In one town, however, the borough of Olyphant, with a total school population of but 1,102, the school superintendent has used the new law with most commendable vigor, succeeding in forcing sixty-seven children out of collieries and silk mills into the schools. The average age of the boys was eleven and one-half years and of the girls twelve years. All these children had affidavits on file showing them to be either fourteen or sixteen years of age.

The association will have the benefit, in its campaign for next winter, of the important material now being gathered by investigators connected with the Pittsburg Survey.

FREDERICK S. HALL,
Secretary.

REPORT OF THE RHODE ISLAND JOINT COMMITTEE ON CHILD LABOR

By invitation of the executive committee of the Providence Public Education Association, certain organizations in the state working in behalf of the betterment of conditions and opportunities for Rhode Island working children were asked to send delegates to a conference to consider the advisability of joint co-operation in some practical direction. The societies represented at this conference, ten in number, formed themselves into a joint committee, and, on January 30, 1908, held two public meetings—the afternoon meeting on the subject of "Child Labor," the evening meeting on "The True Ideal of a Public School System that Aims to Benefit All." Both meetings were well attended. Dr. E. W. Lord, secretary for New England of the National Child Labor Committee, and Mrs. Florence Kelley, of the National Consumers' League, were the principal speakers at the afternoon meeting, presided over by Bishop McVickar, Chairman of the Rhode Island Child Labor Committee.

The general interest in the meetings seemed to indicate an aroused public sentiment in favor of better legislation for the working children of the state. The joint committee decided to present a bill to the present Assembly asking that the limit of the day's work for children be put at seven p. m. instead of eight as at present, and that the privilege given mercantile establishments of exemption from the law for four days before Christmas and on Saturday nights be withdrawn. The bill also required that to obtain a working certificate a child of fourteen must show ability to read and write simple sentences in English, and that there be no sufficient reason to doubt that such child

was physically able to perform the work which it intended to do. It was asked that this bill go into effect September, 1909. The committee to which the bill was referred by the House, amended it to go into effect in September, 1910, and also inserted another amendment giving the factory inspectors the right to demand of proprietors or managers of factories satisfactory evidence that a child apparently under sixteen, and whose employment certificate is not filed, is actually over sixteen.

The bill as amended passed the House the latter part of April and was sent to the Senate and by them referred to the Committee on Special Legislation, where it now lies. The Assembly has taken a week's recess and it is possible the bill may yet get before the Senate this year.⁸ The women's clubs representing the State Federation have been loyally supporting the bill through their delegate on the Joint Committee, and the Child Labor Committee of the Consumers' League has also exerted itself in its behalf.

MRS. CARL BARUS,
Chairman, Joint Committee.

REPORT OF THE WISCONSIN CHILD LABOR COMMITTEE

The Wisconsin child labor law of 1903 had been in effect between three and four years when the biennial session of 1907 approached. Its enforcement had shown it to be one of the most useful and practical laws, and it seemed necessary to take a step forward.

Two features of the law had been often questioned: (1) Vacation permits in specified industries at twelve and thirteen years. (2) The granting of permits by factory inspectors. After long consideration and study, the Wisconsin Child Labor Committee decided that it could not recommend the refusal of vacation permits until municipal playgrounds and truant officers were greatly increased in number, nor any present curtailment of powers of factory inspectors.

But several weaknesses of our law we determined to correct by providing for: (1) A detailed and thorough dangerous employment clause. (2) An educational test. (3) A nine-hour day for children under sixteen; work forbidden after six at night or before seven in the morning, and some minor changes, such as requiring uniform application and permit forms, prompt report to the commissioner of labor on all applications or permits and increase in the test of physical efficiency. In the sharp contest that ensued, these minor improvements were lost in committee, but were not rejected on their merits and will later win their way.

The bill was amended in committee at the eleventh hour, by the insertion of a perishable goods clause demanded by the canning factory interests, permitting night work to children under sixteen "in cases where it is necessary to save perishable goods from serious damage." We hope to report

⁸By amendments, the educational requirement was stricken out, and employment of children in mercantile establishments was permitted up to 10 p. m. on Saturday; but even in this weakened form the bill failed of passage.

at the 1909 meeting that this reactionary clause has been stricken from our law.

Three new sections were sought to be incorporated in the law at the session of 1907:

I. A dangerous employment clause, one of the most thorough in the country, modeled closely on the Illinois law of 1905, was put into the Wisconsin law.

Besides thorough dangerous machinery clauses, mentioning machines and trades by name in detail, the law forbids employment of children under sixteen: (a) In tobacco warehouses, cigar factory, etc.; (b) In any place where intoxicating liquors are made, given away or sold; (c) In any theatre or concert hall; and has at the end a general clause forbidding the employment of children under sixteen "in any other employment dangerous to life or limb, injurious to the health or depraving the morals of such child."

We were surprised and delighted that such a drastic law went through so easily. Results: Probably one thousand children dismissed under this act by breweries, stamping factories, etc., and a tremendous gain in health, morals and safety of employees. There will be still more wide-reaching effects if the casualty companies construe the general clause as many of them have been inclined to do.

II. *The Educational Test.*—We asked for the simplest kind of an educational test, and provided for certificate by principal of public, private or parochial school, countersigned by superintendent of schools, that applicant could read simple sentences in English or in his native language.

The test in this last shape was put into the law but robbed of much of its force by striking out the certificate clause and throwing the duty of educational examination on the factory inspector or other officer to whom application is made.

III. *The Nine-Hour-Day Clause.* The nine-hour-day clause proved to be the center of the conflict, and behind the ten-hour day were ranged all the forces of the manufacturers and merchants, and the hardest fight the friends of child labor restriction in Wisconsin had ever known was the result. The opposition to the nine-hour day seemed to result partly from the feeling that it was the prelude to the application for an eight-hour day and might prove to be a part of the socialist or union labor demand for an eight-hour day for all laborers. The fact that any reduction from ten hours would throw out of work many children now employed as helpers, or would make it troublesome to limit their hours while the general factory day is ten hours, and the further fact that in stores and in certain manufacturing industries children could be profitably employed for ten hours, furnished the ammunition for the enemies of the nine-hour clause. It is not necessary to rehearse the history of the fight nor to enlarge upon the tactics employed by the opponents of the law. It is probable that had we consented to let the nine-hour clause go, the friends of the children could have drawn about what child labor bill they wanted in other respects and it would have been passed. The final result was, as so often happens, a

compromise of fifty-five hours a week instead of the very much better and more workable provision of six nine-hour days. But a straight step in advance was taken, and we hope the Legislature of 1911, and possibly of 1909, may give the straight nine-hour day and better limit the working hours in the evening.

It is interesting and hopeful to note the increasing number of statements from manufacturers and large employers of labor that work of children under sixteen is economically unprofitable; and we hope the application of the dangerous employment clauses and the fifty-five hours a week will pave the way for a straight nine-hour day.

The Committee is glad to record that, however its proposed laws may have been opposed, the laws passed have been, in the vast majority of cases, thoroughly and honestly obeyed by manufacturers and large employers of labor. The general outlook in Wisconsin is very hopeful but there is need of much improved legislation regulating street trades.

STATISTICAL SUMMARY.

Latest official report (another to be issued this summer) shows 16,458 permits issued in Wisconsin in two years ending October 31, 1906. Accuracy impossible, because law does not compel a report of all permits issued.

Of 200,000 people employed, 3.6 per cent, or 7,157, were children of fourteen or fifteen. Only 156, six of whom were in Milwaukee and 150 outside, were reported as under fourteen, and these were dismissed. While Milwaukee shows one-half the adult workers of the state, it had considerably more than half the children. Nearly four-fifths of all employees work ten hours a day. About 4 per cent of all permits issued are vacation permits. Almost twice as many boys as girls were given regular permits. Average public school attendance, four years. Average parochial school attendance, six to seven years. Less than one-third of 1 per cent had attended no school. Most reliable estimates for year ending December 31, 1907: Regular permits, 6,000; vacation permits, 390; prosecution of employers, 27; children under sixteen dismissed, 440; children dismissed under 1907 law, 1,350; permits refused, 425.

EDWARD W. FROST,
Chairman.

REPORTS FOR THE SOUTHERN STATES

VIRGINIA.

A strong child labor committee was organized in Virginia in the fall of 1907, with Senator Eugene C. Massie as chairman. A child labor bill was introduced in the early days of the Legislature of 1908 by Senator Massie, but was vigorously opposed by representatives of the cotton mill and tobacco factory interests. A compromise measure was agreed upon, raising the age limit from twelve to thirteen in 1909 and fourteen in 1910. One provision of the new law excited so much opposition from the manu-

facturing interests that it bids fair to be effective. It provides that the employment of children under the legal age shall be *prima facie* evidence of guilt on the part of both employer and parent.

A compulsory education law similar to the North Carolina statute was also adopted by the Virginia Legislature under the vigorous prosecution of J. D. Eggleston, Superintendent of Public Instruction for Virginia and a valued member of the Virginia Child Labor Committee.

NORTH CAROLINA.

A report for North Carolina is presented elsewhere by Clarence H. Poe.

SOUTH CAROLINA.

In South Carolina, Rev. A. E. Seddon has been conducting some investigations for the National Committee, some account of which has been given in his paper on the "Education of Mill Children in the South." A South Carolina Committee has not been organized. The material is being gathered for it and it is hoped that a vigorous campaign will be fought before the coming Legislature to raise the age limit and also to secure compulsory education.

FLORIDA.

We are yet without a child labor committee in Florida, though there are a number of local committees devoted to the child labor subject belonging to the different women's clubs of the State, which have been very active and aggressive. It was due to them and the labor unions that the Florida bill was passed last year, and they are earnest in their efforts to raise the age limit from twelve to fourteen and to provide for factory inspection. The child labor evil in Florida is almost wholly confined to the cigar factories in three cities and the oyster packing industries on the coast.

GEORGIA.

The Georgia Child Labor Committee is circularizing the members of the Legislature with regard to the passage of the three bills now on the calendar by the second term of the Legislature, which meets in June. These three measures are: a provision for factory inspection, the reduction of the hours from sixty-six to sixty a week, and the cutting off of the exceptions to the twelve-year age limit which permit ten-year-old children to be employed under certain circumstances.

ALABAMA.

In Alabama there has been no change in the situation since the passage of the child labor bill reported last fall. The inspector of jails and factories was given an assistant and an increased appropriation by the last Legislature. I understand that, on account of his sickness, very little work has been done with regard to factory inspection.

MISSISSIPPI.

A child labor committee was formed in Mississippi in the fall of 1907, and at the same time an investigation into the conditions of the Mississippi mills was made by Rev. A. E. Seddon on behalf of the National Committee. Mr. Seddon reported that 25 per cent of the operatives were under fourteen and 50 per cent of the children were illiterate. The facts secured by this investigation were effectively used by the Mississippi Child Labor Committee in the passage of the child labor bill for that state. On account of the opposition of the mill owners, the age limit was reduced from fourteen to twelve before the bill could be passed; and it was provided that the sheriffs of the different counties should aid the work of factory inspection until other men were provided.

LOUISIANA.

The Secretary for the Southern States has been in correspondence with Miss Jean M. Gordon, Factory Inspector for the Parish of New Orleans, with regard to the organization of a child labor committee for Louisiana, although the Era Club, of New Orleans, is an organization vitally interested in this matter. An effort will be made at the coming session of the Legislature in May to amend the present child labor law.

TENNESSEE.

I have no report from Tennessee, though the members of the Committee were active at the meeting of the Textile Conference in Nashville last fall, at which a program of improved legislation was adopted and commended to the Southern States. They have not had a meeting, I believe, since the adjournment of the Legislature in the spring of 1907, but they succeeded, with the aid of the labor forces, in shortening the hours from sixty-six to sixty a week.

ARKANSAS.

In Arkansas an independent committee was formed without any affiliation with the National Committee, except the use of its literature, which was freely supplied. The Arkansas Legislature last year amended its child labor law, raising the age limit from twelve to fourteen, and from ten to twelve for the children of dependent parents. There were other important improvements in the old law.

OKLAHOMA.

The Oklahoma Legislature is now considering the passage of a child labor bill and a compulsory education bill in accordance with the constitutional requirements, and it is confidently expected that these bills will become laws in substantially unchanged form, and will serve as a model to many of the states which have not yet reached their standard.

TEXAS.

Interest is developing in Texas concerning the needed amendments to the Texas child labor law, which has not been touched for several years. It is hoped that a state committee can be organized in Texas in the near future, and that a successful effort will be made before the Texas Legislature of 1909 to raise the standard of child labor legislation in that state.

A. J. MCKELWAY,

Secretary for the Southern States, National Child Labor Committee.

SECRETARY'S ANNUAL REPORT FOR THE THIRD FISCAL YEAR,
SEPTEMBER 30, 1907

I. LEGISLATION—STATE.

During the third fiscal year legislatures in eighteen States enacted child labor laws of importance, Florida placing a law on the statute books for the first time. Alabama, Maine, Missouri, Nebraska, New York, Vermont, Minnesota, Idaho, Tennessee and South Carolina enacted important amendments. The net results of the year justify the belief that more complete organization in the various states would place this Committee in a position to powerfully influence needed legislation in all parts of the country.

In New Jersey a bill to prohibit the employment at night of boys under sixteen was defeated by the combined influence of the glass manufacturers and their employees. In Pennsylvania a bill was presented by the Pennsylvania Committee to correct flagrant defects in the present Pennsylvania law. This was defeated through the influence of manufacturing interests, the adverse activities of the factory inspection department and the inability of the Pennsylvania Committee or of this Committee to pursue the campaign with the persistency required by the situation. Had the National Child Labor Committee been able to maintain skilled workers at the Harrisburg Legislature during the last two months of the legislative session, it is probable that not less than 10,000 children would be in school who are to-day in the mines and factories of that State.

FEDERAL.

Five important child labor bills before Congress received the attention of the National Child Labor Committee, especially through the personal efforts of the Secretary, Dr. Lindsay, and of Assistant Secretary Dr. McKelway, at Washington:

1. A bill to incorporate. By Act of Congress, the National Child Labor Committee received articles of incorporation dated March 8, 1907.
2. The District of Columbia Child Labor Bill, held over from the preceding session, was favorably considered in both Houses, but failed of passage.⁴

⁴Passed May 28, 1908.

3. A bill for the establishment of a National Children's Bureau. This measure, which has received the endorsement of a large number of organizations interested in the protection of children, failed to pass either House.
4. A bill authorizing an investigation, under the Department of Commerce and Labor, of the conditions of working women and children in America. Congress appropriated \$150,000 to this purpose and placed the direction of the work in the hands of the United States Commissioner of Labor.
5. The Beveridge-Parsons Child Labor Bill: to exclude from interstate commerce articles presented for shipment by factories or mines employing children under fourteen years of age. This bill, originally an independent measure, but later added as an amendment to the District of Columbia Child Labor Bill, did not come to vote in either House.

Thus, two of the five child labor bills were enacted. The first places the National Child Labor Committee officially before the American public as an incorporated organization, while the second should lay a scientific foundation for such federal and state legislation as may be desirable, by providing accurate and authoritative information on the extent and conditions of child employment.

II. INVESTIGATION.

Extensive investigations have been conducted during the year in Alabama, Louisiana, North and South Carolina and Florida, covering particularly the employment of children in the cotton industry and the manufacture of tobacco; in the soft coal regions of Pennsylvania, West Virginia and Maryland; in the glass industry in Ohio, Indiana, Illinois, West Virginia, Missouri and Maryland, and in the anthracite coal communities of Pennsylvania. To secure material for use at the Jamestown Exposition, during the summer an investigation was made of street trades in New York City, Philadelphia and Scranton; the physical effects of premature employment as seen among dispensary patients in the New York dispensaries, and of child labor in the tenements of New York City. The results of these investigations have been reported to the Board of Trustees from time to time by the Assistant Secretaries or appear in the various pamphlets and leaflets published by the Committee.

While detailed discussion of the results of these investigations is impossible here, the following general conclusions are submitted:

- (a) In the Southern States the excessive length of the work-day is universally a hardship upon the children in manufacture, while the age limits prescribed by law, low as they are, are subject to almost universal violation, owing to the lack of official factory inspection and of authentic evidence of the age of employed children.
- (b) A reply to the argument that the glass factory depends for life upon the night work of little children is in the fact that the glass

industry shows a greater increase in the states (Ohio, Illinois, New York) carefully forbidding the employment of young children at night than in the three leading glass manufacturing states (Indiana, New Jersey, Pennsylvania) permitting child labor at night. The age limit for employment in glass factories in Missouri, Maryland and West Virginia is so low and employment of young children at night so extensive as to offer a serious menace to education and health.

- (c) The employment of children in the soft coal mines varies according to laws and industrial conditions. The worst conditions thus far discovered are in certain sections of Pennsylvania, although the employment of little boys underground is extensive in Maryland and West Virginia.
- (d) The conditions of child employment in the mines and breakers of the anthracite coal region are slightly improved, partly due to the awakening of public interest, partly to the installation of mechanical devices. The decrease in child labor thus far is slight, however, and the extent of the employment of boys ranging from nine to fourteen years of age is virtually as reported to this Committee a year ago. The vigor of the Mine Inspection Department in attempting to enforce the present inadequate law is gratifying. In a recent order issued by the Chief Inspector of Mines, he calls the attention of his deputies to the fact that deception as to the ages of working children is frequent, and orders the aggressive prosecution of parents or employers who evade or disobey the law. As repeatedly shown in reports of our investigations, the mine inspectors are practically powerless to correct this great abuse of child labor until the law of Pennsylvania is thoroughly revised.

III. TRAVEL AND PUBLIC SPEAKING.

The Secretaries have been in constant demand for public addresses on the subject of child labor. The Secretary, Dr. Lindsay, owing to the administrative duties of the office, has been compelled to decline many calls for his services in public speaking, but has frequently represented the Committee in this capacity in the Eastern, the New England and the Middle Western States. The activities of Dr. McKelway from the Southern office cover a record of travel and work through the Southern States as far west as Kentucky, Tennessee and Mississippi. Mr. Lovejoy has traveled through the North, from the New England States to California, addresses having been delivered in fifteen States. Many other speakers officially representing the National Child Labor Committee have added to the number of public addresses in various parts of the country.

IV. ORGANIZATION OF STATE AND LOCAL COMMITTEES.

State committees have been organized during the year in Maine, Kentucky and Nebraska; local committees have been formed in Oklahoma City,

Okla.; Warren, Ohio; the Southwestern District of Baltimore and Grand Rapids, Mich.; and the Pennsylvania Child Labor Committee has been re-organized. In process of formation at present are state committees in California, Louisiana, Mississippi, Virginia and West Virginia.

Our state and local committees are steadily coming to a larger view of their opportunities. Hitherto, efforts have been largely confined to legislative campaigns. The New York, Maryland, Missouri, Kentucky and other committees are now active in the administration of scholarship funds, and their reports at the third annual meeting and subsequent reports to this office attest the practical value of these activities.

V. CHILD LABOR DAY.

In the early part of January, a letter, signed by representative clergymen in New York City, was addressed to 12,000 clergymen representing Jewish, Catholic and all the leading Protestant denominations in the United States, requesting that Saturday, January 25th, or Sunday, January 26th, be set aside by the churches as Child Labor Day. It was suggested that at least one service on that day be devoted to the discussion of child labor and to the consideration of national legislation and a law for the District of Columbia restricting the employment of young children. This call met a very general response. Many requests were received for the literature offered free of charge upon application; and this led to subsequent correspondence with about 500 clergymen. Numerous requests were received for literature to be distributed at the churches on the day specified. Sermons were devoted to the subject in pulpits all over the country, and several of these were later printed in pamphlet form for distribution. Extensive publicity was given both by the daily and religious press to the necessity of the co-operation of the churches and to the subject of child labor in general. Many church clubs and societies have since shown their continued interest by requesting stereopticon lectures and joining the associate and sustaining membership of the Committee.

VI. PUBLICITY.

The report of the third annual meeting, held in Cincinnati, December 13, 1906, was published in full in the January, 1907, number of *THE ANNALS* of the American Academy of Political and Social Science, and the various papers and addresses were published in separate reprints for distribution. In addition, a number of the earlier pages have been reprinted and other pamphlets and leaflets added, especially for distribution in the exhibit at the Jamestown Exposition.

In November, 1906, an arrangement was made with the *Woman's Home Companion* to publish each month a department of official notes from our office, and for twelve months one or more pages devoted to child labor were thus distributed to their 600,000 subscribers. At our request this plan was terminated with the October, 1907, issue.

In the various investigations, photographs and descriptions have been collected and published either in our official pamphlets or through newspaper and magazine writers who have sought information from us.

The publications of the Committee to the end of the third fiscal year have reached sixty in the serial number of pamphlets, and sixteen in the series of leaflets. The total number of documents issued is 180,000, and the total number of pages aggregates 2,180,000. Aside from our own publications, the public has been informed of our work through the columns of many periodicals.

VII. EXHIBITS.

At the meeting of the Board of Trustees, April 22, 1907, the Acting Secretary was authorized to prepare an itemized account of the expenses to be incurred, including the extensive distribution of literature, for an exhibit at the Jamestown Exposition. Pursuant to this resolution, a plan was drafted and the Committee received a special gift of \$3,000 for the purpose. The exhibit was installed in the Social Economy Building on August 20th. Daily reports from the exhibit indicate that it is serving a valuable purpose, especially in bringing to the attention of the Southern people the extent and conditions of child labor in various parts of the country. During the month beginning September 15th, Dr. McKelway had been at Jamestown delivering a series of stereopticon lectures in the Social Economy Building.

The Committee also conducted a successful exhibit of its work at the New York State Conference of Charities and Correction at Rochester in November, and at the Industrial Exhibit at Philadelphia in December, 1906.

VIII. FINANCES.

The receipts and expenditures of the Committee as shown by the Treasurer's report for the third fiscal year are summarized in the following items:

TREASURER'S REPORT FOR YEAR ENDING SEPTEMBER 30, 1907.

As examined, audited and found correct by Haskins & Sells, of New York, certified public accountants.

DEBITS.

Cash on hand and in bank October 1, 1906.....	\$61.64
Receipts:	
Paid subscriptions	\$27,582.43
Special Fund, Jamestown Exhibit.....	3,000.00
Sale of literature, etc.....	130.75
Account North Carolina Child Labor Committee.....	21.65
Miscellaneous receipts	10.25
Loans	2,000.00
	<hr/>
	32,745.08
	<hr/>
	\$32,806.72
	<hr/>

CREDITS.

Expenses:

Salaries—Administrative	\$5,258.34
Clerks and stenographers.....	3,521.73
	<hr/>
	\$8,780.07

Brought forward	\$8,780.07	
Stationery and office supplies.....	1,229.18	
Postage	2,209.19	
Investigations (including salaries, \$2,500).....	3,045.41	
Rent	1,117.55	
Traveling expenses	1,459.13	
Printing	2,635.12	
Telephone and telegraph.....	333.45	
Advertisement account	2,084.55	
General expenses	464.04	
		<hr/> \$23,357.69
Miscellaneous:		
Jamestown Exhibit	\$2,461.58	
Loan repaid	3,500.00	
Office furniture and fixtures.....	226.50	
Special entertainment	28.48	
Expenses second fiscal year.....	210.63	
Account Pennsylvania Committee.....	50.00	
		<hr/> 6,477.19
		<hr/> \$29,834.88
Cash on hand and in bank September 30, 1907.....	2,971.84	
		<hr/> \$32,806.72

IX. MEMBERSHIP.

The National Child Labor Committee is compelled to record with regret the loss, during its third fiscal year, of the following members: through death, A. J. Cassatt and Samuel Spencer, and through withdrawal from membership, Edgar Gardner Murphy and J. W. Sullivan. No members have been added.

X. CONTRIBUTING MEMBERS.

The financial record of the Committee shows at the beginning of the third fiscal year 957 associate and 24 sustaining members. At the end of the third fiscal year the total number of contributing members is as follows:

Guarantors	36
Sustaining	300
Associate	2,176
Contributing	142

XI. ADMINISTRATION.

This Committee has sustained a serious loss during the year in the resignation from the secretaryship of Dr. Samuel McCune Lindsay. His administration of this office has been characterized by his recognized ability and great devotion to the interests this Committee was formed to serve. Many attempts were made by the Trustees to retain Dr. Lindsay's services,

but, having become Director of the New York School of Philanthropy and Professor of Social Legislation at Columbia University, it was impossible for him longer to bear the burdens of this office. At the meeting of the Board of Trustees, April 22d, Dr. Lindsay's resignation was accepted and he was elected Vice-Chairman of the Committee. Mr. Lovejoy was appointed Acting Secretary.

The increased correspondence due to the plan of a popular associate membership has necessitated the enlargement of the office staff. Our files now show a correspondence list of over 20,000 names.

The material and facts regarding child labor collected by the Committee during the three years of its work have been placed at the disposal of the United States Commissioner of Labor and his special agents for aid in their investigation of the conditions of child labor, authorized by Congress at its last session.

In consultation with the Chairman of the Committee, the need was discussed for a thorough compilation of the official and scientific literature on child labor in European countries. Through the kindness of Dr. Isaac Adler such a compilation is to be made for this Committee by a well-qualified physician whom he will select for the work.

The Finance Committee, May 27th, made a careful review of the financial situation and directed that especial attention be given to securing additional contributions. Through efforts continued during the summer, new names were added to the membership list, especially in the class of sustaining members, and these, together with other contributors, have enabled the Committee to close the year with the credit balance shown in the Treasurer's report.

OWEN R. LOVEJOY,
Acting Secretary.

New York, October 1, 1907.

THE PROCEEDINGS OF THE FOURTH ANNUAL MEETING OF THE NATIONAL CHILD LABOR COMMITTEE

The first annual meeting of this Committee was held in New York City, February 14th to 16th, 1905. The second annual meeting was held in Washington, December 8th to 10th, 1905, with supplementary sessions, one in Philadelphia on December 7th, and one in Chicago on December 16th. The third annual meeting was held in Cincinnati, December 13th to 15th, 1906.

At the fourth annual meeting, held in Atlanta, Ga., April 2, 3, 4 and 5, 1908, the following program was carried out:

GENERAL TOPIC OF THE FOURTH ANNUAL MEETING: CHILD LABOR AND SOCIAL PROGRESS.

I. Thursday Evening, April 2: Reception and Banquet.—Piedmont Hotel.

Toastmaster, General Clifford L. Anderson, Chairman of the Georgia Child Labor Committee.

"The National Child Labor Committee," Dr. Felix Adler, Chairman National Child Labor Committee, and Leader of the Society for Ethical Culture, New York.

"What Atlanta is Doing for the Children," His Honor Mayor W. R. Joyner.

"The Business World and Child Labor," Asa G. Candler, President of the Chamber of Commerce.

"Paternalism or Fraternalism," Hon. Hooper Alexander.

"The Work of the Women's Clubs," Mrs. Hamilton Douglas.

"Organized Labor and Child Labor," Charles Bernhardt.

II. Friday Morning, April 3, 10.30 o'clock.—Piedmont Hotel.

Conference.—Reports of State and Local Committees.

Presiding Officer, Dr. Samuel McCune Lindsay, Vice-Chairman, National Child Labor Committee.

"WHAT IS A GOOD CHILD LABOR LAW?"

1. Symposium.

Five-minute addresses covering questions of age limit and other standards; who should issue employment certificates; the English education test, with a comparison of child labor laws in other countries, etc.

2. "Child Labor in New England," Everett W. Lord, Secretary for New England, National Child Labor Committee.
3. "Report on Southern Textile Conference," A. J. McKelway.
4. "Children on the Streets of Cincinnati," E. N. Clopper, Secretary for Ohio Valley States, National Child Labor Committee.

III. Friday Afternoon, 2.30 o'clock.—Piedmont Hotel.

"CHILD LABOR AND EDUCATION."

Presiding Officer, Dr. A. J. McKelway.

1. "Compulsory Education in the South," George F. Milton, editor *The Sentinel*, Knoxville, Tenn.
2. "The Education of Mill Children in the South," Rev. Alfred E. Seddon, Atlanta, Ga.
3. "The Function of Education in Abolishing Child Labor," Owen R. Lovejoy, General Secretary, National Child Labor Committee.
4. "Compulsory Education, the Solution of the Child Labor Problem," Lewis W. Parker, Greenville, S. C.
5. "Scholarships for Working Children," Fred S. Hall, Secretary, Philadelphia Child Labor Committee.⁵

⁵This article will be published later, as a separate pamphlet, by the National Child Labor Committee.

IV. Friday Evening, April 3, 8 o'clock.—Grand Opera House.

"EFFECTS OF CHILD LABOR ON SOCIETY."

Presiding Officer, Dr. Felix Adler.

1. "The Basis of the Anti-Child Labor Movement in the Idea of American Civilization," Dr. Felix Adler.
2. "Social Cost of Accident, Ignorance and Exhaustion," Prof. Charles R. Henderson, University of Chicago.
3. "The Leadership of the Child," Dr. A. J. McKelway, Atlanta.

V. Saturday Morning, April 4, 10.30 o'clock.—Piedmont Hotel.

Conference—Business Session. Reports of State and Local Committees.

Presiding Officer, Edward W. Frost, Milwaukee, Wis.

A SYMPOSIUM ON FACTORY INSPECTION.

1. "Essentials in Factory Inspection," Hon. John H. Morgan, Chief Inspector of Workshops and Factories, Ohio.
2. "Why the Children are in the Factory," Miss Jean M. Gordon, Factory Inspector, Louisiana.

Special Topics for Discussion.

1. "The Need of More Authority for Factory Inspectors."
2. "Duty of the Private Citizen to Aid in Law Enforcement."
3. "Co-operation with School Officials."

VI. Saturday Afternoon, 5.30-7.00 o'clock.—Governor's Mansion.

Reception by His Excellency, Governor Hoke Smith and Mrs. Smith.

VII. Saturday Evening, 8 o'clock.—Grand Opera House.

"CHILD LABOR AND THE STATE."

Presiding Officer, Dr. Felix Adler.

1. "The Consumers' Responsibility for Child Labor," Mrs. Florence Kelley, Secretary, National Consumers' League.
2. "The New View of the Child," Edward T. Devine, Ph.D., Secretary, Charity Organization Society, and Professor of Social Economy, Columbia University, New York City.
3. "The Club Woman and Child Labor," Mrs. A. O. Granger, Cartersville, Ga., of the General Federation of Women's Clubs.
4. "The Scope of National and State Regulation of Child Labor," Samuel McCune Lindsay, Ph.D., Director, New York School of Philanthropy, and Professor of Social Legislation, Columbia University, New York.

VIII. Sunday Afternoon, 3.00 o'clock.—Mass Meeting, Grand Opera House.

"THE ETHICAL AND RELIGIOUS ASPECTS OF CHILD LABOR."

Presiding Officer, Chancellor James H. Kirkland, Vanderbilt University, Nashville, Tenn.

*This article will be published later as a separate pamphlet by the National Child Labor Committee.

1. "The Duty of the People in Child Protection," Hon. Hoke Smith, Governor of Georgia.
2. "The State of Oklahoma and Her Children," Miss Kate Barnard, State Commissioner of Charities, Guthrie, Okla.
3. "The Psychology of the Child," Rev. J. W. Stagg, D.D., Pastor, First Presbyterian Church, Birmingham, Ala.¹

ATLANTA COMMITTEES ON FOURTH ANNUAL MEETING.

Committee on Entertainment.—General Clifford L. Anderson, Chairman, Hon. Hooper Alexander, Hon. W. A. Covington, Don Marquis, Ex-Gov. Allen D. Candler, Burton Smith, Councilman Wright, Mayor *Pro Tem*. Quillian, Alderman Key, Councilman Harmon, Councilman Alonzo Johnson, Hon. C. M. Candler, Rev. W. W. Landrum, Charles D. McKinney, Rev. T. H. Rice, R. J. Guin, Asa Candler, H. H. Whitcomb, V. G. Kriegshaber, Rev. C. B. Wilmer, A. J. McKelway.

Finance Committee—Clifford L. Anderson, Asa G. Candler, H. H. Whitcomb, A. J. McKelway, Sam D. Jones, James R. Gray, F. L. Seely, Clark Howell, Robert F. Maddox, Dr. David Marx, F. J. Paxon, Joseph Hirsch.

The first session of the annual meeting was a reception and banquet given by the Georgia Child Labor Committee to the members and guests of the National Child Labor Committee at the Piedmont Hotel. General Clifford L. Anderson, Chairman of the Georgia Child Labor Committee, presided, and gave a welcome to the city and an endorsement of the work in which this Committee is engaged. In the course of his remarks, he declared that the progress of mankind is coincident with mental development, and the capacity of adult man for successful achievement is measured by the opportunities of his youth. Nine-tenths of human achievement, he believed, is attributable directly to selfish impulses, guided by independence of thought and action. Nevertheless, it did no violence to this faith to advocate an appeal to law to improve the standard of physical and mental equipment for the struggle with life. "No child is expected to determine for himself the wisest course to pursue in fitting himself for his future life. It must be determined for him, either by his parent or by his state, and since his state is compelled under our form of government to do what a majority of its people wills, it is in no sense contrary to the principles upon which our government is founded, that we adopt laws which prohibit those things which will degrade our citizenship or deprave our citizens, or which compel them to comply with reasonable regulations for sanitation, or for labor, or for other things contributing to their material and moral up-lifting. Therefore, I have no patience with those persons who, actuated by sordid motives, seek to belittle the efforts of those who have devoted themselves to this great work, and to classify them either as meddlers or advocates of paternalism.

"These eminent men and women, then, who have gathered together in our city for this occasion, command and deserve our respect and the gratitude of the nation; and Atlanta, with its liberal and ever-hospitable people,

¹Paper not published owing to failure in securing stenographic report.

appreciating as she does, her selection as the place for the fourth annual meeting of the National Child Labor Committee, extends to you, guests of the evening, whom we delight to honor, a most cordial welcome.

"I now have the honor to present to you His Honor, W. R. Joyner, Mayor of Atlanta."

Mayor Joyner described briefly what Atlanta is doing for the children in the development of the probation system, the juvenile court and the improvement of the conditions of working children. He referred to a resolution recently passed by the General Council of Atlanta providing for the appointment of a committee to investigate the conditions in places where women and girls are employed. "I was very fortunate in securing ladies to serve on this committee who are much interested in this work and the result of their investigation will be watched for with interest. This committee has full power to make a complete investigation of the factories, mills, department stores and other places where women and girls are employed, and I am confident of their ultimate success in the correction of any evils that may be found to exist. I am informed that this is one of the first instances where a city government has taken a hand in such matters, welfare work of this kind usually coming through organizations of citizens.

"In regard to the mill children of Atlanta, it gives me pleasure to state than for ten years this city has contributed to their improvement. This has been done through the Atlanta Free Kindergarten Association, where the little children of the women who work in the mills are given free instruction through the Sheltering Arms, which maintains a free day nursery and does similar work in the mill districts, through the Home for the Friendless and through a corps of nine splendid physicians especially charged with the duty of waiting upon the poor of the city free of charge.

"It may be of interest to you to know that, although Atlanta's income is about two and one-half million dollars per annum, more than eighty thousand of this amount is expended annually for the relief of the poor and in maintaining non-sectarian institutions of various kinds, which have special charge of the work that is being fostered through the endeavors of such organizations as that to which you belong.

"I believe the work you are doing is of the utmost importance at this time. Certainly no efforts can deserve a greater reward than those which seek to remove the obstacles from the paths where little children walk, and which seek to make their lives sweeter and better and more joyful, and which give them the best opportunities to develop into the strong manhood and womanhood we all admire and which we all are, or ought to be, striving for."

Hon. Asa G. Candler, President of the Chamber of Commerce, discussed the relation of the business world to child labor. With subtle humor he defended child labor and the function of the National Child Labor Committee. He said: "Child labor properly conducted, properly surrounded, properly conditioned, is calculated to bring the highest measure of success to any country on the face of the earth. The most beautiful sight that we see is the child at labor; as early as he may get at labor, the more beautiful, the more useful does his life get to be.

"I understand the function of this National Child Labor Committee is solely to tell us how to surround the child that his labor may develop him into a noble, useful, competent laboring grown person. And while you are engaged in this great service, when you remember, if I have spoken the truth, that you labor in the richest field in all this universe, that which promises the greatest returns, then you will realize how important you are to society."

Dr. Adler, Chairman of the National Child Labor Committee, responded to the addresses of welcome, and said:

"On behalf of the Committee over which I have the honor to preside, I thank you, General Anderson, for your cordial words of welcome, and you, Mr. Mayor, for the hand you so warmly extend to us. I propose also to answer the challenge implied in the last words of the beautiful address by the President of the Chamber of Commerce to which we have just listened.

"He has challenged us to tell how the child Atlanta is to play and how it is to labor, and what are to be the measure and the reward of its toil. It seems to me we can answer in no better way than to express the wish that this child Atlanta may emulate the lovely girl of Arcadia, who was the first to be called Atlanta, and in whose honor it is believed that this city was named,—the huntress and princess, matchless, peerless, swiftest in the race, with whom no one ever successfully competed until that last race in which she won by losing, the one race she ever lost and yet the one also in which she won the most; for she gathered the three golden apples to her breast and won a lover.

"So my wish for Atlanta is that this city may gather the threefold fruit to her breast; the fruit of material wealth, of civic progress and of humanitarian sentiment in the name of which we are here gathered together.

"I offer my tribute and my homage, in the name of our Committee, Mr. Chairman, to the modern Atlanta."

The address of Hon. Hooper Alexander, on "Paternalism or Fraternalism," drew a clear distinction between a social order in which improved conditions are super-imposed and a true democracy in which each citizen participates in the general advance.

He said: "Anaemic morality is degenerate. The virtue that springs from the good red blood is full of human passions, and, therefore, by so much as a people are virtuous and virile, by so much will their reforms be retarded when irritating intervention shall seek to scold or hurry them to their own betterment. Now, this is not inconsistent with the welcoming of a friendly and fraternal co-operation from without, that only tenders sympathy and a helping hand when asked.

"Child labor in factories is a new thing in Georgia. Twenty years ago it was scarcely known. Ten years ago it had become acute, and vested interest had appeared upon the scene. Seven years ago the inevitable struggle began here to be rid of it; and it is a satisfaction to me to know that from the beginning I was some small part of that movement. It has had its foredoomed reverses, but its ultimate triumph is in sight. The thing that has

been most potential to retard the movement here has been some limited amount of impatient scolding from New England, the surest provocative of quick resentment. On the natural passions thus aroused, vested interests have shrewdly played for their own purposes. And when these interests charged that the distant scoldings emanated from an interested source, jealous of industrial competition here, it was no easy matter to counteract the Machiavellian plea, so cunningly designed to play upon the passionate resentments of a generous people conscious of the injustice of the hasty criticisms aimed at their young fault.

"The advocates of that righteous reform here felt the more keenly the injustice of the thing, because we who are in the struggle knew that more than half the hampering opposition emanated from those very regions whence the alleged jealousies were charged to come—from non-resident investors whose potential influence, acting through capable agencies, unduly blocked our efforts.

"It was most fortunate that when this Committee sent its sympathetic aid to Georgia, its messenger and agent, Dr. McKelway, had the rare discretion to subordinate his official station and his own personality and to become, while rendering invaluable service in that work, only a mere co-operating home unit here.

"Child labor flourished in England many generations before an awakened public conscience there corrected it by law. Its history in New England was very much the same, for it lasted there fully three generations. Its course in the South has been very brief. Its ultimate elimination here will be reasonably prompt if no unwise philanthropy, by impatient scoldings, shall drive to the aid of vested interests those whose red blood makes them resent alike interference with our domestic concerns and straining interpretations that seek undue enlargement of the federal power.

"Uncharitable and revolutionary interference checked in the South one great reform and long delayed it, and the atonement was costly and bloody; and it will be well for all to profit by that lesson and let no other such mistaken spirit of intolerant reform stay the inevitable progress of righteousness at the cost of prolonged suffering to little children."

The address of Charles Bernhardt, representing the American Federation of Labor, was a vigorous denunciation of the employment of young children and an appeal to all classes of citizens to unite in eliminating from the industrial system so costly an error. He said: "We can never expect to get broad-minded, intelligent men from a race of pigmies brought about by unfavorable conditions or by conditions of toil that deprive them of an opportunity for education, an opportunity to get out in the open air and sunshine. Children cannot broaden mentally or physically in the sweat-shop, or factory, or mill; they must have an opportunity to expand. It has been said that these little children would not go to school if they had the opportunity. Perhaps the child does not know what school is. We must take into consideration the fact that the child who has been in the factory for several years feels timid about going to school, especially when it finds children more advanced than itself. Even these children feel that they can

get along and struggle through life without going to school. We must do something to overcome these conditions. It is a cause that appeals to every-one of us, whether we earn our bread by the sweat of our brow or by manual exercise. We all are American citizens. As an economic evil we should get together and stamp out child labor as we would a foreign foe. If organized labor, as has been said here to-night, feels that it is the pioneer, if it has made the fight these many years on this evil, it is because it is nearest to it. When working men get home from the shop, or the factory, and look at the little babies at the fireside dependent upon them for support, and realize what to-morrow may bring forth, they wonder oftentimes if it is possible that these little children they love better than their lives will have to face similar conditions. Although they hope to avoid this, and do as much as they can to prepare themselves, yet it is likely to happen to the majority of them. That is the reason they are so eager to see conditions change; so that each child may have an opportunity for common schooling, and to put itself in condition to work and to shoulder the responsibility of citizenship. Let us continue to make the fight together, because this matter threatens our national life."

Mrs. Hamilton Douglass represented the women's clubs of Atlanta and spoke of their work. Hers was an eloquent defense of the right of woman to study the industrial conditions of modern society, because, in so doing, she is simply performing by new methods what the model housekeeper of ancient times did in caring for her household.

She said: "This present age, this twentieth century, has taken away the distaff from Penelope. It has put her spinning wheel in the factory. Her loom no longer stands in the four walls of her home: it stands in some great factory in Massachusetts, or North Carolina, or Georgia. Her spinning and weaving and dyeing, and brewing and baking, are taken a little further from her than in ancient times. Her children are educated a little further from her knee, but that does not make her a new woman. She is the same woman with the same duties and responsibilities, whether she travels in an ox-cart or a steam-car. Extrinsic do not change the eternal verities. Whether her co-workers spin or weave does not change her duty toward them. Just as the wise woman took care of her household when that household was in her sight, so the ideal woman of to-day must take care of those who are doing her work for her, wherever they may be. Just so far as the spinner in yonder factory spins for me, she is a part of my household; just so far as she weaves for me, so far is she a part of my household. If a little child works for me without having that 'portion of meat' that the wise woman gave, I am to blame. I must give a portion, not only to my household immediately around me, but to my more distant household. So the modern Penelope is the oldest-fashioned woman, when she takes an interest in the health and well-being of those women and children working for her in factory or sweatshop, or in the hidden, unlovely places of earth.

"The ideal club, the only one worthy of the name, is the club that helps women to see that far-off worker, that far-off member of the household, and just so far as any woman's club fails to help in that way, it fails

of its highest ideal and is not fit to survive. The woman's club is the field-glass that enables the club-woman to bring nearer to her that distant worker; to make her see that the distance between the factory that makes, and the home that consumes, is only a step. The woman's club is just a long-distance telephone that makes her hear the 'cry of the children.' The club woman who takes an interest in the sweat-shops, and the children in them, and in our factory workers everywhere, is just the same old-fashioned woman who 'looketh well to the ways of her household.'"

At the second session, Friday morning, April 3d, reports of state and local committees were presented, published elsewhere in this volume.

Following these reports the Conference engaged in a general discussion of the subject, "What is a Good Child Labor Law?" The importance of establishing rigid physical and educational standards was urged as offering greater protection to children than the mere establishment of an age limit. The discussion was opened by Mrs. Florence Kelley, with the following remarks:

ENFORCING CHILD LABOR LAWS.

"There are at least six essentials for a good child labor law, and the greatest of these is the enforcing official. In the interest of the children, these officials should be some of the ablest and most disinterested men and women in the community. With a thoroughly admirable chief inspector at work, everything else gradually comes, and without a thoroughly admirable chief inspector the best law remains largely valueless. Given excellent inspectors, and the weakness in any local situation is bound to be discovered, with the necessary legislation thereby rendered relatively easy to get. Next in order of importance comes a workable educational requirement. A child labor law is valuable to a child just in proportion as it applies the test of fitness to work directly to the child itself.

"We have no parish registers like those on which the English legislation rests, and they would be of no use for the foreign-born children if we had them. Yet we have everywhere placed upon poor and ignorant parents the burden of temptation to lie, and cheat and perjure themselves by placing upon them the duty of furnishing the child's age, as the chief condition for its finding employment. The crop of perjury that we have reaped has been richly deserved.

"In many states there is merely the requirement that a child, before beginning to work, shall reach a specified age. This is utterly futile without the further requirement of proof of age. Then arises the question, What kind of proof?

"The best kind is the child itself. If 'Johnny' is tall and strong and heavy; if he has graduated from the eighth grade of the public school and can do examples in fractions from dictation, he is presumably at least fourteen years old. For himself, these are the important tests, height, weight, school record of achievement, and available knowledge, to reinforce the evidence as to his age.

"These things we get in New York City by means of the requirement that

the public shall always have access to the filed documents in every child's case. At the office of the Board of Health there have been accumulating for some years, for every working child, the signed statement of the class teacher and principal as to the grade from which each child has come, and its days of school attendance since the thirteenth birthday. With this is filed the signed statement of the examining physician that the child is, in his opinion, of the normal development of a child of its age and in good health.

"If, therefore, a feeble-minded child be found at work, it is perfectly simple to trace the official whose faithlessness let the unhappy victim escape from the special class adapted to its needs, out into the world of work.

"Is the person at fault in such a dereliction the examining physician or the teacher or principal? Obviously all three, and clearly none of them has any such temptation as besets a toiling, illiterate mother.

"This, then, I believe to be the best method of enforcement yet devised for any child labor law in this country."

Hon. John H. Morgan, Chief Factory Inspector of Ohio, urged the importance of the establishment of state truancy departments on the ground that a local truant officer is frequently unable to overcome the power of local influence in the performance of his duties. He also contended that the adequate enforcement of child labor laws demands the employment of women factory inspectors, a provision recently secured in the child labor law of Ohio.

Newton T. Baker, of Rhode Island, a textile manufacturer, inquired as to the operation of the "half-time system for children of school age." A brief discussion followed in which the experience of England was cited as emphasizing the following objections: First, that the child employed for a half day in the factory is too fatigued and too discouraged in competition with full-time students to do the best work in school; second, that the employers have found the system unsatisfactory, because of the irregularity of children working part time; third, that the law requiring the child to be in the factory a half day and in school a half day is practically impossible of enforcement.

Papers were presented by Everett W. Lord, Secretary for New England, on "Child Labor in New England," and by E. N. Clopper, Secretary for the Ohio Valley States, on "Children on the Streets of Cincinnati," and the following Report on the Southern Textile Conference was given by Dr. A. J. McKelway, Secretary for the Southern States:

THE SOUTHERN TEXTILE CONFERENCE.

At the meeting of the Tennessee Legislature an effort was made to amend the child labor law, and, as usual, the manufacturers opposed, while the labor unions and the child labor organizations advocated the improvement of the existing law. Before the matter was brought to an issue, however, and after the hearing of conflicting claims by the legislative committee, the two sides got together and agreed upon a compromise, namely, the shortening of the hours from sixty-six to sixty a week. At the same time it was suggested, and a resolution to that effect was passed by the legislature, that a Southern Textile Conference be called by the Governor of

Tennessee with representatives from the labor unions and from the manufacturing interests of the South, and those interested specifically in child labor reform. The conference was called to meet in Nashville, October 14 and 15, 1907.

The manufacturers of Tennessee did their best to secure representation from the manufacturing interests of the other Southern states, but in this they failed, though in some instances representatives were appointed by the governors of the respective states. When the conference assembled, it was found there were seventy-nine representatives of the labor unions present from several Southern states, eleven representing the manufacturing interests and ten members of the child labor organization. The Tennessee manufacturers therefore proposed withdrawing from the conference, but it was agreed to give them equal vote with the labor unions and child labor organization on the floor of the conference.

Colonel L. B. Tyson, of Knoxville, Tenn., a leading manufacturer of the state, was elected chairman of the conference, and Dan Wolff, of Memphis, secretary. After an address of welcome by the Governor of Tennessee, a committee on procedure was appointed, which recommended the following topics for discussion before the conference:

1. Age limit for the employment of children.
2. Hours of labor for children.
3. Age limit for night work.
4. Age limit for illiterate children.
5. Factory inspection.
6. Law enforcement.
7. Relation of compulsory education to child labor laws.
8. Rules and regulations for the employment of girls and women.
9. Certificate of employment.
10. Vagrancy.
11. Birth registration.
12. Marriageable age and age of consent.
13. Sanitary regulations.
14. Physical ability of children employed.

The resolutions offered on this topic were referred to a committee on resolutions, and, after a long and, at times, exciting discussion in the committee, the following recommendations were unanimously adopted by the committee and reported to the conference, which also adopted them by unanimous vote:

That the general age limit in manufacturing or mercantile employment and street trades be fixed at fourteen years.

That those Southern states that have not adopted a sixty-hour per week schedule should adopt same at once for all employers of women and children under eighteen years of age, except those engaged in agricultural pursuits and domestic service, and adopt as soon thereafter as is practical a fifty-eight-hour schedule. Provided, that nothing herein contained shall be construed as a recommendation to lengthen the hours per day in cases of states that have already adopted laws providing shorter hours of work.

That no child under sixteen years of age be allowed to work in any manufacturing or mercantile establishment or in the street trades between the hours of seven p. m. and six a. m.

That the keynote to the solution of the child labor problem is compulsory education, and that each state shall pass stringent laws requiring all children between seven and fifteen years of age to attend school at least sixteen consecutive weeks each year, unless they have completed the highest grades taught in their school districts, and that the state furnish all school books to children attending public schools free of charge.

That all able-bodied men who have no visible means of support, who live in idleness upon the wages or earnings of their mother, wife or minor children, except male children over eighteen years of age, shall be deemed vagrants, and shall be punishable under laws relating to vagrancy.

That uniform laws on birth registration are recommended for all states.

That no female under seventeen and no male under nineteen years of age be allowed to marry, and that oaths to this effect be required before issuing license.

We recommend the enactment by various states of such laws as shall make it possible to definitely and positively establish the age of every child employed in a manufactory or in other establishments, and suitable penalties for the violation of same.

That the shop and factory laws of the various Southern states be extended and amplified in keeping with our industrial progress and advancing civilization, and that sufficient appropriation be made to provide for a force of inspection officers who will fairly cover the ground and who will prudently and firmly enforce all laws pertaining to the welfare and protection of those employed in the mines, shops, factories and manufacturing establishments.

That we recommend to all the states where women and children are employed that women inspectors should also be appointed.

That labor agents from other states be required to pay a license of \$1,000.

We favor the enactment of laws providing for the proper sanitation, ventilation and lighting of all manufacturing, mechanical and mercantile establishments and workshops; for the erection of adequate fire escapes and other means of egress in case of fire or other disasters; the installation of proper and adequate appliances for protection against dangerous machinery, beltings, hatchways, elevators and stairways; the screening of all stairways used by the female help, and separate toilet, dressing and wash-rooms for members of the opposite sexes; the furnishing of blowers or fans to carry off dust or smoke in all cases where such dust or smoke may be injurious to the health of the employees; and the installation of a sufficient number of seats for women and children to be used by them at such times when they are not actually engaged in the performance of the work at which they are employed.

WHEREAS, The results of the conference prove that only good can come from free interchange of views by the representatives of manufacturers and other employers of woman and child labor, and of the humane organizations;

Resolved, That this conference request that the General Assembly of Tennessee authorize the Governor of Tennessee to call a similar conference in the fall of the year 1910, for the same purpose, in some Southern city.

Upon the organization of the Mississippi Child Labor Committee, a resolution was passed asking the aid of the National Child Labor Committee in effecting the passage of the Child Labor Bill. I found that the bill as drawn included a provision for an eight-hour day for children under sixteen years of age. I told the Mississippi Committee that if my assistance was desired in this matter, I should have to insist, in good faith with the members of the conference, that the fifty-eight-hour schedule, instead of the forty-eight be adopted, and, upon my advice, the bill was re-written in this respect. Unfortunately, the same good faith was not evident on the part of the opponents of child labor legislation. One of the manufacturers, who was present at the Nashville conference, was also the owner of cotton mills in Mississippi. At the hearing given to the friends and enemies of child labor legislation by a committee of the Mississippi Legislature, he appeared in opposition to the bill of the Mississippi Child Labor Committee, which had been purposely drawn to keep within the recommendations of the conference at Nashville, for which he had voted, and the bill as finally passed was based upon the twelve-year age limit instead of the fourteen-year age limit as recommended by the Textile Conference.

In conclusion, I should like to throw out this challenge. We hear constantly the claims that are made by the manufacturers that they are friendly to reasonable legislation, and oppose only extreme measures. The recommendations proposed by the Textile Conference as a standard for the Southern States are the standards of child protective legislation for the civilized world. The labor unions throughout the South have bound themselves not to advocate a more drastic scheme of legislation for the protection of children in the next three years. The National Child Labor Committee has bound itself through the action of its secretary for the Southern States. What are the manufacturers going to do about it? What will be the action of their industrial organizations and of individual mill owners when these humane and reasonable measures for the protection of human life, for the protection of child life, are embodied into bills before our Southern legislatures? If they shall agree to this reasonable program—all honor to them! If they shall oppose it, let the responsibility rest where it belongs!

The papers presented at the third and fourth sessions appear under their various titles in this volume.

Following the addresses on the "Education of Mill Children in the South," by Rev. A. E. Seddon, and "Compulsory Education, the Solution of the Child Labor Problem," by Lewis W. Parker, of Greenville, S. C. (see pp. 40 to 56 of this volume), Dr. McKelway, the presiding officer at this session, made the following statement:

"I have never met Mr. Parker before, though we have had some very pleasant correspondence. But, having now heard his able address, I can understand better why it has been so hard for us to accomplish anything by way of improving the child labor law of South Carolina. While I believe

that law was a compromise between manufacturers and the friends of child labor reform, it is now claimed by the manufacturers as their law. I must say that it is not a law to boast of. There is no factory inspection and the twelve-year age limit is weakened by the provision that a child of any age, who is already handicapped by orphanage or by being the child of shiftless or dependent parents, may be further penalized by having the burden of his own support or the support of his parents bound upon his tender shoulders. I call attention to the fact that the case mentioned by Mr. Seddon, of the seven-year-old girl whom he found at work in one of the South Carolina mills, who had been working there for a year and a half, until this year under a twelve-hour day and now under an eleven-hour day, was not a violation of the South Carolina law, since the child was an orphan. Has not the proud State of South Carolina, with its humane people, something better to do with an orphan girl of five and a half years than to send her to the cotton mill? We have the photograph of this child actually engaged at work before a machine, and no one who looks at the picture will doubt her age to be as stated.

"As regards compulsory education, the program arranged for this meeting and the papers read will surely prove the interest of this committee in this cause. But it has been often pointed out that the manufacturers of the South, as a whole, are divided on this question of compulsory education. Some who favor it, as Mr. Parker and the South Carolina manufacturers, represented by himself, say that we must wait for a compulsory education law before we send the children out of the mills. Others say that compulsory education is a mistaken theory, and that, as a child labor law is not effective without compulsory education, therefore, the child labor law should not be passed at all. In either event, you see, the child of tenderest years may be kept in the mill. This committee is openly and unanimously for compulsory education as making more effective child labor legislation. When the manufacturers as a class cease their objection to it, the compulsory education laws will be enacted. The North Carolina manufacturers have published to the world that they are in favor of compulsory education. The North Carolina Legislature passed, over a year ago, a sort of local option compulsory education law, any school district being allowed to vote itself under the provisions of the general law. I have yet to hear of any mill district that has put itself under the compulsory education law.

"I am glad that Mr. Parker has said what he has about the educational advance made in the South. So far as advocacy with my pen is concerned, I have done what was in my power to aid in this great movement. But I call Mr. Parker's attention to some figures he did not quote from Census Bulletin No. 69, the figures as to the comparative illiteracy of the states at large and of the factory families within those states.

"In Georgia, the white illiterates ten to fourteen years of age are 10.4 per cent of the total. In the factory families, the illiterates of the same age are 44 per cent. In North Carolina the corresponding figures are 16.6 per cent and 50 per cent. In Mr. Parker's State of South Carolina the white illiterates of the state at large from ten to fourteen years of age are 14.8

per cent. The illiterates of the same ages in the factory families are 48.5 per cent. That is, the illiteracy of the children of the factories in these three states is three or four times as great as the illiteracy of white children of the same ages in the states at large. And the smaller percentage for the states at large includes the larger percentage of the factory families. It is not too much to say that the white illiteracy of these three states at least might be almost abolished if we could educate the children of the factory districts. The figures given by Mr. Parker as to school enrollment for the factory districts in South Carolina indicate some improvement since 1900. But there is an immense difference between school enrollment and the average attendance at school. The investigations of Mr. Seddon in South Carolina showed a great discrepancy between the two in the mill villages, as his paper has shown. In Mr. Parker's own mill, the Monaghan Mill, of whose educational and welfare work Mr. Seddon could not say too much in praise, out of the forty-one children personally examined, at work in the mill, one of nine years, one of sixteen, and the others between, there were twenty-eight illiterates. And in another of Mr. Parker's mills, the Granby Mill, of Columbia, where there was a very large attendance in the first four grades, above 95 per cent, it was found that about half of the children were half-timers, working half their time in the mill, an expedient which has been ruinous to the mill population of England, and which I hope Mr. Parker will abandon as soon as he learns of its harmful tendencies, certainly for children of the first four grades.

"Mr. Parker claims that a child labor law in the South is necessarily aimed at the cotton mills, and that a compulsory education law would be equal in its operations. I call attention to the fact that the compulsory education bill which Mr. Parker and his colleagues advocate has the low age limit of twelve years. So it would afford no protection at all to children over twelve and not to children under twelve during vacation. And with the school term often shorter than the vacation, one may readily imagine how much good it will do the children physically to spend say eight months in the mill and four months in school. But as to the child labor law being aimed at the cotton mills, Mr. Parker himself states a very natural reason when he says that eighty per cent of the employees in South Carolina industries are cotton mill operatives. The same admission is made when he says: It would be folly to contend that the proportion of children in the Southern cotton mills was no greater than in the cotton mills of other portions of the Union. And to this statement there should be added the statement of the Census Bulletin, which I quote from memory, that to a greater extent than any manufacturing industry the cotton mill is the employer of children. Certainly, if the cotton mill has attained this bad eminence, and the Southern cotton mill is the peak of the eminence, complaint should not be made that the child labor reform has the cotton mill in view. But there is still another reason why the cotton mill has become notorious for the employment of children, namely, that the cotton mill owners have been most conspicuously hostile to the cause of child labor reform. In every legislative battle in which I have been engaged, with the exception of the one in

Florida, where there is but one cotton mill, the cotton manufacturers have presented practically a united front against child labor legislation—in North Carolina, in South Carolina, in Georgia, in Alabama, in Mississippi—and even where the law has been enacted they have generally succeeded in forcing in a provision that has made the law largely ineffective. When they cease to be known as the enemies of this reform they may perhaps not have reason to complain that a child labor law is aimed at them. However, the laws, so far as I know them, speak of ‘manufacturing establishments,’ and not ‘cotton mills.’

“Mr. Parker takes up considerable space in his paper on compulsory education in attacking the statements made by the National Child Labor Committee and its officers. It might appear, at first blush, a little singular that any one really in favor of this reform should endeavor to weaken the influence and attack the good name of the only national organization in this country which is formed solely for the purpose of abolishing this evil. The statements criticised are now about two years old. The advertisement, if correctly quoted, asking for help to rescue ‘two million children from premature labor,’ was written before the census department had analyzed its own figures of the census of 1900. In the census a million and three-quarters of children under sixteen were denominated ‘breadwinners, engaged in gainful occupations.’ From the alarming increase of child labor indicated in that census it was believed that there were two million breadwinners. The child breadwinner on the farm is not the boy who works for his father without wages, he is in one sense or another hired out. Still, the statement that two million children needed rescue from premature employment was perhaps extreme, although some authorities contend that the census department has been compelled to understate the real facts, because parents who have already made false statements about the ages of the children at work in order to obtain a certificate, would be likely to repeat the falsehood to the census taker.

“However, I attempted some analysis of the census figures, as early as 1904, and Mr. Parker was seemingly so much pleased with that address that he sent to me more than once for copies to distribute. In that paper I said: ‘Among those under sixteen years of age counted by the census makers as engaged in gainful occupations, by far the greatest number are at work on the farm. And by the operation of the tenant system and the landlord’s contract for a certain number of hands, thousands of children, especially among the negroes, are counted as engaged in gainful occupations who would not be enumerated except for the tenant system. This is a kind of child labor that does not interfere even with school attendance in the winter months, and is beneficial in the direction of physical development.’ I reiterate that statement with which Mr. Parker was already familiar. But we take issue with him when he says that a child labor law has nothing to do with children under sixteen. It has most emphatically, as to the hours of labor, as to night work and as to opportunity for education.

“In quoting from my address in Cincinnati, ‘The Awakening of the South Against Child Labor,’ Mr. Parker makes an omission which is significant. The census had given the rate per cent of children under sixteen in

Southern cotton mills as thirty per cent. Mr. Parker omits to mention that the manufacturers gave the total number of operatives in their own reports to the 'Blue Book,' their textile publication, namely, 209,000. The crime of which I am accused is that of multiplying the base by the rate to find the percentage of 62,700 children from ten to fourteen years of age. If there is any other rule by which the manufacturers obtain the desired result, I shall be glad to learn the new arithmetic.

"It was my opinion, based on considerable observation, that, a year ago, the rate had increased, on account of the scarcity of labor, to which Mr. Parker refers, and the movement, carefully investigated, of the small families from the mill to the farm and of the large families from the farm to the mill. I emphasize the fact that we now have an estimate from a manufacturer that there are only 9,000 children under fourteen in all the Southern cotton mills. Mr. August Kohn, a most friendly critic of the South Carolina cotton mills, declared last year that there were fifteen hundred children in the mills of South Carolina alone under twelve. I should hate to believe that after the last two years of agitation and legislation on this subject in the South and with the prospect of further restriction by 1910, the census of that year should not show some improvement. But I should be overjoyed to find that Mr. Parker's estimate of 9,000 was then correct.

"As to the efforts of the South Carolina manufacturers to obtain compulsory education, birth registration and a marriage license law, I am in entire sympathy, though the proffer of our aid in these matters was respectfully declined by a South Carolina manufacturer. If Mr. Parker will go to the bottom of this subject, he will find that the early marriages and the wife desertion, against which he so eloquently protests in the appeal to the South Carolina Legislature, are the legitimate fruits of the child labor system with its inevitable disintegration of family life.

"And I could wish that the South Carolina manufacturers who have been for so many years advocating these laws, without success, were as effective in constructive legislation as they have been in obstructing and emasculating the child labor legislation for the protection of the children."

At the fifth session, Saturday morning, April 4th, further reports were presented by state and local committees, and addresses were made by Hon. John H. Morgan, Chief Inspector of Factories and Workshops of Ohio, on "Essentials of Factory Inspection," and by Miss Jean M. Gordon, Factory Inspector of Louisiana, on "Why the Children are in the Factories."

Following these papers the Conference joined in a general discussion of factory inspection. In this discussion the value of adequate authority for factory inspectors and school officials was shown and the duty of the private citizen to aid in law enforcement was urged by the factory and school officials present.

On Saturday afternoon a meeting was held at the Jewish Temple, at which Rabbi David Marx presided and addresses were delivered by Edward W. Frost, Edward T. Devine, Mrs. Florence Kelley and Owen R. Lovejoy. This meeting was followed by a reception given in the parlors of the Temple

by the Atlanta Council of Jewish Women, at which the delegates and guests of the National Committee were given an opportunity to meet the minister and members of the congregation whose interest has been so pronounced in local child labor reform. Other receptions, which added to the pleasure of the annual meeting, were given on Thursday afternoon by the Atlanta Woman's Club, at the Grand Opera House, and on Friday afternoon by Mrs. J. Warren Boyd at her home. The local committees made ample arrangement for the entertainment of the conference, the number of gatherings being limited only by the time at the disposal of the delegates.

The topic at the seventh session was "Child Labor and the State." The addresses on "The Consumers' Responsibility for Child Labor," by Mrs. Florence Kelley, and "The New View of the Child," by Edward T. Devine, Ph.D., appear in other parts of this volume. Mrs. A. O. Granger, representing the General Federation of Women's Clubs, addressed the meeting on "Club Women and Child Labor," and spoke as follows:

"One of the recognized causes of child labor is the non-observance, or entire lack, of two important laws, one compelling the registration of all births and the other directing that every child be obliged to attend school until it has acquired at least a rudimentary education. It is no longer practicable to accept the word of a parent who desires his child to work in the mill. Careful mill-owners must be aided by requiring parents to show proof of the ages of their children.

"In our public school education, we need many changes from the present curriculum in order to fit the children for life's work, and now I speak for the women of the Georgia Federation of Women's Clubs. The crying need of our schools to-day is manual training. The boy or girl who goes through a school course without industrial training has developed very little skill with the fingers. When quickness of eye and hand are developed, in doing work at once useful and interesting, the pupil entering the field of mechanical labor will be fitted to appreciate fine machinery and to be careful in its management, and there will be fewer machines made temporarily useless by carelessness. With a course properly arranged for the training of eye, ear, hand and brain there will be only a brief struggle against 'compulsory' education.

"The rapid growth of welfare work among the mills of our own and neighboring states is undoubtedly due in large measure to the interest awakened by club women. When one manufacturer tells us of the economic mistake of employing children too young, and another says 'ten hours is plenty long enough,' and still another says, 'When I must run my mill at night I'll seek some other business,' we know that we are doing right in seeking a shorter working day, and no night work, for children under sixteen. In every legislative body there are broad-minded legislators willing to do their best to correct evils when brought to their notice, and in every state there are women on the alert to explain the needs of the children and to ask for new amendments or to prevent the passage of vicious bills.

"In the beginning it was a frequent thing for club women to hear themselves spoken of as 'meddlesome' or 'sentimental,' but the testimony of facts

to the needs of the children took away the sting of such epithets. They heard of the little boys in an Indiana wood-working mill escaping by jumping from the rear fire escape while the inspector was detained in the office; of an Ohio factory where the cellar and a certain large closet hide the children under legal age when the inspector comes around; of little girls in a Pennsylvania silk mill being turned out unguarded into midnight darkness; they heard of the little glass-worker who toils all night every other week in the hot factory. They know the child's birthright—healthful surroundings, fresh air, proper education and a great deal of play and sleep. They know also the danger coming to our country from excessive wealth and extravagant living, as seen by those who through overwork or unsanitary conditions have lost both physical health and moral stamina, and they are striving to have a quieting influence on both extremes of our modern civilization.

"The club woman wants a child labor law which shall be effective all over the country, North, South, East and West, and here in Georgia she wants three things: A birth registration law with penalty for non-observance. A compulsory industrial education law, which shall prepare children for skilled labor, yet keep them from it until properly developed. And for our child labor law, amendments which shall do away with all exceptions; limit the work of children to ten hours a day; forbid all night work for boys or girls under sixteen; and provide a proper number of inspectors to be appointed by the governor."

The last session of the conference was a mass meeting in the Grand Opera House on Sunday afternoon, April 5th, under the general topic, "The Physical and Religious Aspects of Child Labor." Addresses were delivered by Chancellor James H. Kirkland, Hon. Hoke Smith, Rev. J. W. Stagg, D.D., and Miss Jean M. Gordon. With the exception of the third, these addresses are published in other portions of this volume.

Miss Kate Barnard, of Oklahoma, addressed the conference on "The New State and Its Children," and spoke as follows:

"It is pleasing to the people who represent the higher thought to find that in America there is a National Child Labor Committee which spends its time and thought, not on the tall sky-scrapers, not on the trade and commerce and the business interests of the world, but upon the question of how to improve America's little boys and girls. The greatest of all our responsibilities is the debt we owe to the little children. It is not because we wish to take issue with the great manufacturers, or to lessen their profits or in any way harm their interests that we agitate the child problem in America. It is rather to bring an opportunity to every little human atom to grow and develop and become beautiful in heart and mind and soul; and it is also to save the thoughtless manufacturer from blighting and marring a frail little human life. It is also for the protection of our national life and our national health that we plead; for what can these children, betrayed in the morning of their youth, and wrecked in morals and health and family—what can they bequeath to posterity, excepting their counterpart; and how else can we account for the tuberculosis and the many other diseases which are sweeping our nation, excepting that the origin of these infections is traced

to the sweat-shops, night work in the glass factories, the lint of the loom and the dust of the coal breaker?

"In Oklahoma we are trying, through wise legislation, to produce a moral atmosphere and a physical soil in which we may grow little human plants as beautiful as these I have at my elbow here. These flowers which beautify the world and throw out their fragrance to man—these, Luther Burbank has told us, are only weeds, cultivated so carefully and nurtured so tenderly that they have developed and blossomed into roses like these. And so we would cultivate in Oklahoma the human plant to its full fragrance and beauty and excellence.

"In order to do this, we are passing compulsory education and child labor laws, we have provided a juvenile court and an industrial school, and have enacted the various kinds of legislation which reach down like human hands to protect our delicate childhood. It is sad to me to hear, and most difficult to believe, that in your beautiful Southland, where the roses and magnolias bloom, and where hearts are warm and sincere and sympathetic, where nature and God seem to combine to make the world beautiful,—it is almost impossible for me to believe, that in your beautiful Southland of Georgia little human beings are hidden away in factories, that in the midst of deafening roar and blinding dust little human blossoms are crushed and faded and going to waste, just like the dry, dead autumn leaves which you trample under your feet.

"In Oklahoma we would do differently, and when hereafter you meet your friends of the North and East and West and South, tell them that out to the westward where the evening sun is setting, a new civilization is being builded up—a civilization which deigns not to protect its industries at the expense of a little child. Tell them the boys and girls who in later generations come out of Oklahoma will represent and typify the highest ideals in mind and body and soul. If the test of civilization is the attitude the strong bear towards the weak, you may tell them that in Oklahoma our civilization is the grandest in the world. We may not be able in our youth to compete with you from a financial standpoint, but we are determined that our new civilization shall be such as to point upward for all the older civilizations of the world. We are not content with protecting the babies only; we have a newer thought and a higher ideal. We believe in the fathers and mothers of Oklahoma, so we are enacting wise legislation to save the fathers from the terrors of our industries and bring them safely home in the evening to their own firesides.

"We have enacted a law which will protect the miner from the gas and black-damp as he delves away so industriously in the dark under-world. We have passed a mining bill, which will insure to the coal diggers the greatest protection that has ever been given them in the history of the world, and this mining bill will save the fathers of little children—ten thousand working men. We have passed a scaffolding bill, which calls for extra screws and heavy planks and strong boards to protect the carpenter. We have passed a bill which compels the railroads to turn the steam off their engines before men enter the red-hot boilers to calk the flues. We have created a depart-

ment of factory inspection and a department of charities as divisions of our state government. We are anxious to build such a civilization that all the world will come to view our splendid men and women.

"I had almost forgotten to tell you that for the boys and girls of Oklahoma nothing in legislation would do but the very best. Hence we sent for your Southern Secretary, Dr. McKelway, a leader in the national child labor work, to help us with our child labor bill; and we sent for Judge Ben B. Lindsey, of Denver, Colo., to help us with our juvenile court measure; and to Oklahoma came also Hastings H. Hart, of Chicago, and Alexander Johnson, the Secretary of the National Conference of Charities and Correction, and the splendid Prison Congress President, Samuel J. Barrows. And all these men lectured before our legislature with the one thought of gaining the very best legislation for the Oklahoma child."

The following resolutions were presented by Dr. A. J. McKelway and unanimously adopted, after which the sessions of the fourth annual meeting were formally adjourned:

Resolved, That the National Child Labor Committee, in convention assembled, has heard with pleasure of the great work the governor and legislature of Oklahoma are doing for the protection of the children, and hopes that the legislation now pending will be adopted and that other states will emulate her example.

Resolved, That we hereby endorse the District of Columbia child labor bill now pending in Congress, and urge its passage for the protection of the children at our national capital.

Resolved, That the thanks of the Committee and its guests and friends are hereby tendered to the people of Atlanta for their abounding hospitality; to the governor of Georgia for the delightful reception tendered us; to individuals and clubs, too numerous to mention, for courtesies extended, and to the three daily newspapers for the space freely given to the reports of the meeting and their unanimous advocacy of our cause.

STATE AND LOCAL COMMITTEES IN CO-OPERATION OR AFFILIATION WITH THE NATIONAL CHILD LABOR COMMITTEE.

Alabama Child Labor Committee.—Dr. B. J. Baldwin, Montgomery, Chairman.

Citizens' Child Labor Committee of the District of Columbia.—George M. Kober, M.D., 1603 Nineteenth Street, N. W., Washington, Chairman; Henry J. Harris, 1429 New York Avenue, Washington, Secretary.

Georgia Child Labor Committee.—Hon. Clifford L. Anderson, Atlanta, Chairman; Rev. C. B. Wilmer, D.D., 412 Courtland Street, Atlanta, Secretary.

Hull House Child Labor Committee, Chicago, Ill.—Jane Addams, Hull House, Chicago, Chairman; Mrs. Harriet M. Van Der Vaart, 6710 May Street, Chicago, Secretary.

Iowa Child Labor Committee.—Prof. Isaac A. Loos, Iowa City, Chairman; Hon. Edward D. Brigham, Des Moines, Secretary.

Kentucky Child Labor Association.—Lafon Allen, Louisville, President; Mrs. R. P. Halleck, 1240 Third Avenue, Louisville, Secretary.

Maine Child Labor Committee.—Scott Wilson, Portland, Chairman; Mrs. Ella Jordan Mason, Biddeford, Secretary.

Maryland Child Labor Committee.—Robert Garrett, Baltimore, Chairman; H. Wirt Steele, 101 W. Saratoga Street, Baltimore, Secretary.

Child Labor Committee of the Southwest District of the Federated Charities of Baltimore.—Elizabeth Gilman, 614 Park Avenue, Baltimore, Secretary.

Committee on Child Labor and Legislation of the Consumers' League of Massachusetts.—Edith M. Howes, 416 Marlboro Street, Boston, Chairman.

Michigan Child Labor Committee.—Prof. Frank T. Carlton, Albion, Secretary.

Inter-Church Child Labor Committee, Grand Rapids, Michigan.—Mrs. H. Gaylord Holt, 28 Wellington Place, Grand Rapids, Chairman; Mrs. W. K. Morley, 300 Bates Street, Grand Rapids, Secretary.

Mississippi Child Labor Committee.—Mrs. R. L. McLaurin, Vicksburg, Chairman; Judge T. E. Cooper, Jackson, Chairman Legislative Committee; Mrs. Corinne Deupree Bailey, University, Secretary.

Children's Protective Alliance of Missouri.—Mrs. Philip N. Moore, 3125 Lafayette Avenue, St. Louis, Chairman; Prof. Edgar James Swift, Washington University, St. Louis, Secretary.

Nebraska Child Labor Committee.—Dr. George Elliott Howard, Lincoln, Chairman; Rev. Stephen P. Morris, 408 City Hall, Omaha, Secretary.

New York Child Labor Committee.—Mornay Williams, 25 Liberty Street, New York, Chairman; George A. Hall, 105 East Twenty-second Street, New York, Secretary.

North Carolina Child Labor Committee.—Rt. Rev. J. B. Cheshire, Raleigh, Chairman; C. L. Coon, Wilson, Secretary.

Ohio Child Labor Committee.—Dr. Albert H. Freiberg, 19 W. Seventh Street, Cincinnati, Chairman.

Child Labor League of Warren, Ohio.—Miss Phebe T. Sutliff, 234 High Street, Warren, Chairman.

Child Labor Committee of Oklahoma.—Mrs. D. M. Thorpe, Oklahoma City, President; Miss Kate Barnard, Guthrie, Secretary.

Oregon Child Labor Commission.—H. G. Kundret, 43½ Second Street, Portland, Chairman; Mrs. Millie R. Trumbull, 305 Jefferson Street, Portland, Secretary.

Pennsylvania Child Labor Association (in process of organization).

Philadelphia Child Labor Committee.—J. Lynn Barnard, 108 E. Greenwood Avenue, Lansdowne, Chairman; Fred S. Hall, 1338 Real Estate Building, Philadelphia, Secretary.

Allegheny County Child Labor Association.—John W. Anthony, Pittsburgh, President; Miss Ada Weihl, Columbian Council, Pittsburgh, Secretary.

Rhode Island Child Labor Committee.—Right Rev. W. N. McVickar, Providence, Chairman.

Joint Committee on Child Labor for Rhode Island.—Mrs. Carl Barus, 30 Elmgrove Avenue, Providence, Chairman.

Tennessee Child Labor Committee.—Dr. James H. Kirkland, Nashville, Chairman; Rev. J. E. McCulloch, Nashville, Secretary.

Virginia Child Labor Committee.—Hon. Eugene C. Masie, Richmond, Chairman; Rev. James Buchanan, D.D., Secretary.

Newport News (Va.) Child Labor Committee.—J. H. Williams, Newport News, Chairman; John B. Locke, Vice-Chairman; Charles E. Heim, Secretary.

Wisconsin Child Labor Committee.—Edward W. Frost, Wells Building, Milwaukee, Chairman; H. H. Jacobs, University Settlement, Milwaukee, Secretary.

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TARIFF REVISION A PUBLIC NECESSITY

BY D. M. PARRY,

President Parry Manufacturing Company, Indianapolis, Ind.; Ex-President
National Association of Manufacturers.

The tariff question is no longer one of protection or free trade, but rather one of correcting the abuses of the protective system and of furthering the general industrial good by taking account of industries which have a surplus production seeking a foreign outlet, as well as of giving consideration to industries which cannot, without assistance, sustain themselves against foreign competition in the home market. The demand for new legislation to accomplish the purposes just stated has become widespread in recent years, and both political parties, recognizing the strength of the demand, have committed themselves this year to legislation in the near future. Inasmuch as for the last decade and a half the money question has rendered political results without meaning as relating to the tariff, the practical unanimity of opinion to-day that the tariff law needs overhauling is to be regarded as a decided gain for righteousness by those who believe in "sweet reasonableness" in tariff matters. However the scope of the promised legislation remains yet to be determined. The expression of independent sentiment, regardless of political affiliation, is largely responsible for the present movement, and perhaps this independent sentiment will have a potent influence in shaping the new legislation. It is significant that nowhere is there a dissent to the opinion that the tariff is high enough, and it is generally taken for granted that the new law must be in the direction of lower duties, either by direct revision or by the adoption of the maximum and minimum arrangement, whereby the same end can be accomplished through reciprocity treaties which at the same time widen the foreign market. In addition the outlook for the creation of a permanent tariff commission is destined, I believe, to receive increased attention as offering the most feasible solution of the problem of introducing business principles into our tariff system.

There need be no apprehension that the new legislation will be antagonistic to the protective principle. Nowhere is there any serious advocacy of free trade. That the protective tariff has been and is a vital factor in the diversifying and building up of our industries is a deeply-rooted faith among the people. Even in the central West where not to exceed 5 per cent of the population are engaged in tariff industries, there is a general willingness to continue taxation for industries that need it. But, though the protective principle is not being subjected to serious attack, yet it is well to emphasize, on occasion, that the tariff is a tax paid by the people, and that no industry can acquire a vested right in its permanent payment. Surely if there were a more general understanding that the tariff is a tax in which private interests share the proceeds with the government, there would be a more rigorous questioning of various duties imposed than has yet been manifested. Also it is important to emphasize that unless the tariff is wholly a protective tariff there is no good excuse for its existence. Its one valid object is to enable the home producer to collect a tax or subsidy from the public in selling his product, this being done in order to encourage the development of the industry and to place it on a competitive level with foreign producers. A tariff levied for the primary object of raising government revenue is an abomination and a crime. With the single and somewhat inconsequential exception of a tariff on articles which cannot be produced in this country, no tariff can be devised which does not give private interests a share in the proceeds. In the case of every tariff the government collects the tax only on the foreign article imported, while the home producer collects it on the article made at home. In the case of a tariff mainly for government revenue it is presumed no valid reason exists for giving the home producer the benefit of the taxing power, and, therefore, such a tariff is justly to be stigmatized as an engine for the unjust diversion of wealth from the possession of the many to the pockets of the few. As our present tariff is presumably solely a protective tariff, the revenue the government receives from it must be regarded as merely an incidental result of the protective policy, and treasury deficits cannot have any proper influence whatever on new tariff legislation—if the government finds it needs more money there is only one honorable and sensible way of raising it, and that is by

levying a tax of such a nature that the entire proceeds from it will go into the public coffers without division with private interests.

It is almost universally taken for granted that there is a large number of industries in need of tariff protection, but when we come to specify these industries and to ascertain just how much protection is really needed, it must be confessed that the average man finds himself confronted by a riddle of almost sphinx-like impenetrability. The ignorance on tariff details is colossal. For the want of some public agency which can investigate the needs of the industries and supply impartial data as to the effects of tariff duties, the public is like a trusting lamb being led to the slaughter. It is given out that Congress is well informed on the tariff, but it is painfully noticeable that when Congress has a tariff law under consideration it falls rapidly away from a discussion of duties on their merits, and resorts to the famous log-rolling method, which is based on that high dictum of statesmanship, "You tickle me and I'll tickle you." The present tariff is just such a hodge-podge as may reasonably be expected under the circumstances.

The tariff costs the people millions of dollars annually, and it ought to be regulated from the standpoint of obtaining the maximum of industrial good at the least cost. To do this it should be regarded as a business undertaking by the nation—it should be divorced as far as possible from politics. The creation of a permanent tariff commission would go far toward accomplishing this end. Such a commission, composed of experts, would have the time to investigate every phase of the subject thoroughly, and its recommendations, founded on exact and impartial data, would carry great force. The members of Congress appear to oppose the creation of such a commission because they seem to fear it will encroach on their prerogatives. They declare they are as competent to handle the tariff as any commission, but it is not a question of competency, but rather one of time in which to study, investigate and consider a myriad of details. Congress has no more time to go into these details than it has to dig post holes. Still we have no commission at this time, and it is the task of Congress to show the country what it can do in the way of turning out tariff legislation that gives the public a fair deal while treating the industries with what, let us say, is fair generosity.

Can many of the duties in the present tariff be pruned without

doing violence to the protective principle? I believe that any reasonable man will answer this question in the affirmative. Protection is granted for the purpose (1) of enabling new industries to establish themselves and (2) to offset for labor in industry in general the difference between labor cost at home and abroad. For the first purpose high duties are considered needful, but it cannot be argued that these high duties should last forever. If the "infant" industry does not become lusty and mature after the lapse of some years, then it would seem to be an indication that it is constitutionally incapable, in which case taxation in its behalf is worse than money thrown away. On the other hand if it does become healthy and strong and able to stand without props, then it is time for the props to be taken away. The magnificent showings of our statistical tables are rather convincing evidence that the most of our industries are able to stand on their own feet at this time, and very little has been heard for years about infant industries. The natural inference is that quite a number of our tariff duties can be scaled without doing violence to the protective system.

The second purpose of protection given above, that of offsetting the difference in labor cost at home and abroad, is the more important. The standard of wages being higher in this country than abroad, the cost of production is correspondingly higher. To enable many of our products to compete with the foreign product, some measure of protection is essential, and the country can well afford to tax itself in order to protect its labor against the cheaper labor abroad and to maintain the American standards of living. Still it is instructive to note that no country is richer in natural resources and human energy than this, and as a consequence there are some of our industries at least which are able to pay American wages and still compete with the foreigner without assistance. An examination of the tariff schedule readily discloses that many of the items more than liberally provide for the difference in labor cost at home and abroad, and once more the inference enforces itself on our minds that there are many duties that can be pruned without endangering the protective principle.

It is an abuse of the protective principle, an inexcusable breach of the public trust, for private interests to enjoy the taxing power to a greater extent than what is fairly needful for their protection against foreign competition.

Sometimes it so happens that competition between home producers operates in time to eliminate in whole or in part the advantages which an industry may have once derived from a tariff duty. The duty ceasing to be a means for the taxing of the public for the protection of the industry, no longer serves any useful end on the statute books, and becomes a temptation for the elimination of competition between the home producers, so that they may again make it an active agency for taxing the public. Frequent charges are made that various duties have thus become "trust" protectors instead of "infant" industry protectors, all of which goes to show that there are various sorts of abuses which may grow up under a protective tariff which is not amended from time to time.

It being a practical certainty that many duties can be lowered without ruinous invasion of the home market by the foreigners, it may at once be concluded that tariff reduction is the just policy to pursue. But there is another and very important phase to the situation which is entitled to careful consideration, and which suggests the advisability of adopting a plan whereby we may secure the reduction of foreign tariffs while reducing our own. Quite a number of our industries have reached a point of development where they are capable of a greater production than the home market demands, and the number of such industries will increase in the future. These industries should have a foreign outlet for their surplus production, and it is just as important, if not more so, that their natural growth be not checked as it is that new industries be assisted to a self-sustaining basis. Tariffs are now largely a matter of international agreement, and to secure reductions in duties of foreign tariffs on goods we can export, we should be in a position to offer in return concessions in our own tariff. Hence the force of adopting both a maximum tariff and a minimum tariff, with sufficient margin between them to allow for the making of reciprocity treaties. The value of a permanent tariff commission to assist in the execution of this plan for international agreements ought to appeal forcibly to the country.

In tariff negotiations with other countries we must make up our minds that it will be necessary to offer genuine concessions, and therefore it is essential that the minimum tariff be made as low as possible consistent with the absolute requirements of the protective principle. The present tariff could well serve as the maxi-

munum tariff. Possibly some of the duties could on reasonable grounds be raised for this purpose, but any attempt to make the present schedule practically the minimum schedule would make the new legislation nothing but a farce. The free list should be considerably enlarged in the minimum tariff, particularly as relating to raw materials—it is well to remember that one of the ways to build up home industries is not to tax the raw materials they use and also it is a senseless policy which puts a premium on the rapid exhaustion of our natural resources.

While there are many other things beside the tariff which are responsible for good or bad times, yet the tariff has its effect, and it will tell for prosperity to put our tariff system on a business-like basis and to make such changes in the law as will make the burden of taxation no higher than is needful for carrying out a fair and honest protective policy.

WHAT PROVISIONS OF THE DINGLEY TARIFF REQUIRE REVISION

BY ALBERT CLARKE,

Secretary of the Home Market Club and former Chairman of the United
States Industrial Commission.

For three years there has been a growing demand for a revision of the tariff, and now that the occasion is riper than it was, revision has been agreed upon and the preliminary work begun. I have been trying all the while to have some immediate revisionist file a bill of particulars, but without success, except that a few have said the iron and steel duties are too high, wool and woolens require overhauling, the lumber, pulp and paper duties should be repealed or reduced, all important raw materials should be put in the free list and reciprocity should be promoted. Most of these suggestions have been made in general terms and by men not engaged in the industries proposed to be affected. The time is now at hand when suggestions must become definite to be of any value.

The Republicans having resolved to maintain the policy of protection, and the Senate being assuredly Republican for four years, it is easy to prognosticate that whatever the Democratic policy may be (this article is written prior to the Denver convention), the revision that will take place will seek to readjust duties and regulations, bringing them up to date, rather than to enter upon any change of policy. All the free traders and many protectionists, however, think there should be a general reduction and few or no increases. Investigation has convinced me that they will have to be disappointed if Congress carries out the Republican promise, and this because of facts which I will proceed to state.

The present tariff was enacted in 1897. Except in one or two cases of the accumulation of several years' supply of imported products under its predecessor, it was in normal operation by 1900. The test of a tariff as to whether or not it is too high, or not sufficiently protective, is seen in the imports of a series of years.

The following table of our principal competing imports in 1900, 1904 and 1907, which have been coming in over the Dingley duties in increasing volume, is the briefest possible statement of the items that suggest the possible need of higher rather than lower duties:

Competing Imports Which Have Increased

	1900.	1904.	1907.
Automobiles and parts of .....	.....	.....	\$4,041,025
Bone and horn, manufactures of	\$271,893	\$249,515	292,073
Books, music, etc.	1,551,966	1,907,617	3,072,127
Brass, manufactures of	24,816	56,796	.....
Breadstuffs, total	1,803,729	3,247,503	5,892,968
Brushes	977,513	1,372,227	1,586,556
Buttons and forms	592,501	892,612	936,085
Coal tar colors and dyes	4,890,072	4,918,503	5,635,001
Mineral waters	662,022	860,678	1,053,976
Potash, muriate	1,804,254	2,407,957	3,860,555
nitrate	269,739	366,526	400,200
total	3,437,160	4,403,794	6,289,342
Soda, total	5,908,611	9,821,666	14,481,740
Chemicals, total	53,705,152	65,294,558	82,997,914
Chocolate, manufactured	240,141	426,486	830,611
Clays, dutiable	926,111	1,191,291	1,846,289
Clocks and parts of	344,440	621,239	610,060
Watches and parts of	1,406,111	2,369,235	2,983,113
Cocoa, manufactured	313,561	300,409	371,816
Bagging, dutiable	318,417	263,680	1,218,346
Bags, jute	1,327,215	1,307,231	4,330,530
Cordage	68,920	384,961	407,997
Burlaps	10,606,185	14,630,647	29,113,847
Total dutiable, manufactures of fibres..	30,974,034	39,221,694	67,028,070
Fish, total dutiable	6,426,817	8,610,653	10,780,075
Fruits, total dutiable	9,744,413	10,806,572	13,944,094
Nuts, total dutiable	12,020,300	14,720,100	21,345,833
Furs and manufactures of.....	5,413,317	5,757,129	8,972,600
Glass and glassware	5,037,931	6,583,168	7,596,631
Glue	537,492	598,546	596,667
Gunpowder and explosives	383,150	730,861	1,211,308
Hair, manufactures of	248,226	87,476	565,603
Hats of straw, etc.	734,633	1,237,155	2,832,226
Hides of cattle	19,408,217	10,989,035	20,649,258
Hops	713,701	1,374,327	1,974,900
Copper, manufactures of	37,569	35,929	82,542
Cork, manufactures of	464,658	810,733	1,707,930

	1900.	1904.	1907.
Cotton, manufactures of:			
cloths, bleached or dyed	8,156,301	8,144,383	12,727,769
clothing, except knit	1,231,231	2,505,035	3,771,188
knit goods	4,715,762	6,044,691	8,671,848
laces, edgings, etc.	19,208,165	24,848,764	39,756,502
thread, yarn, not spooled	5,272,491	5,060,533	6,940,261
total manufactures of cotton	41,296,239	49,524,246	73,704,636
China, not decorated	1,081,685	1,337,381	1,257,051
decorated	7,176,659	10,193,072	11,885,680
Eggs	8,741	61,458	26,276
Emery, ground	28,317	90,932	216,061
wheels, files, etc.	11,485	12,547	17,749
Feathers, not dressed	1,736,458	2,742,018	4,401,131
dressed	117,265	171,339	1,772,380
artificial, and fruits	2,225,202	2,432,496	3,332,004
Flax, dutiable	1,646,274	2,541,874	2,254,112
Hemp, dutiable	450,269	869,260	1,534,371
India rubber, manufactures of	818,420	1,157,042	2,519,661
Iron and steel:			
ores	1,497,022	1,593,277	3,660,449
pig	2,109,501	4,047,167	15,654,767
bar	1,028,877	1,366,097	1,669,165
rails	83,738	1,190,536	133,936
hoop	31,749	70,281	129,100
ingots, blooms, slabs	1,389,028	3,398,692	3,633,928
wires and manufactures of	386,316	722,580	1,330,852
machinery	3,569,096	3,184,968	4,963,429
other manufactures of	1,671,899	3,976,250	3,057,449
total iron and steel	11,767,226	19,549,848	33,633,075
Ivory, manufactures of	49,418	74,497	69,544
Lead, pig and other	3,142,469	3,838,734	4,364,890
manufactures of	13,781	2,788	20,832
Leather	132,674	772,610	597,449
manufactures of	6,773,024	6,190,984	12,322,248
Marble and manufactures of	812,606	1,408,433	1,569,476
Stone and manufactures of	215,944	263,941	376,786
Matches	156,705	230,867	201,927
Matting of straw, etc.	2,674,911	3,609,795	3,769,202
Meat products	471,315	844,960	936,397
Dairy products	1,814,068	3,352,506	5,832,035
Metals and composition	4,791,493	6,337,823	10,325,446
Musical instruments and parts	1,090,541	1,366,285	1,498,724
Animal oils	273,367	638,591	344,358
Mineral oils, free	217,405	247,906	1,140,734
dutiable	3,042	32,840	165,132

	1900.	1904.	1907.
Olive oil, refined	1,170,871	1,875,825	3,523,725
Paints and colors	1,535,461	1,674,193	2,013,481
Paper, except lithograph and parchment	3,795,645	5,319,086	10,727,885
Perfumeries	533,411	853,135	1,250,855
Pipes and smokers' articles	301,959	704,631	1,126,635
Rice, dutiable	1,875,609	1,869,338	2,118,147
Silk, manufactures of:			
clothing	1,657,641	2,805,804	5,218,620
laces and embroideries	3,206,857	4,864,318	6,646,902
ribbons	1,811,644	1,978,013	1,816,582
velvets, etc.	2,316,115	1,702,486	2,652,034
total manufactures of	30,894,373	31,973,680	38,653,251
Soap	623,144	900,841	973,286
Spirits, wines and malt liquors:			
malt	1,727,256	2,313,325	3,408,763
distilled	3,609,831	4,957,507	6,886,691
wines	7,421,495	9,391,870	11,808,781
Straw and grass, manufactures of	336,287	508,358	725,861
Sugar, total	100,250,974	71,915,753	92,852,253
Tobacco and manufactures of:			
leaf	13,297,223	16,939,487	26,055,248
manufactures of	2,364,137	3,133,859	4,137,127
Toys	2,923,984	4,977,389	6,993,561
Vegetables	2,935,077	7,008,602	5,728,472
Wood and manufactures of:			
sawed lumber, dutiable	7,495,509	8,878,474	16,255,350
pulp	2,405,630	3,602,668	6,348,857
total dutiable, manufactures of	14,635,340	18,565,180	31,576,546
Wool and manufactures of:			
Class 1—clothing, dutiable	8,009,985	8,573,494	21,378,304
Class 2—combing, dutiable	2,633,721	2,819,822	3,235,281
Class 3—carpet, dutiable	9,617,230	13,420,275	16,920,443
total unmanufactured	20,260,936	24,813,591	41,534,028
Manufactures of:			
clothing, except knit	992,619	1,309,995	1,674,915
cloths	5,129,529	4,158,597	5,732,200
dress	5,872,085	8,205,835	9,240,245
knit	495,961	515,747	210,856
shoddy and noils	86,887	52,697	271,116
yarns	129,688	112,925	154,668
total manufactures of	16,164,446	17,733,788	22,321,460
Total dutiable imports	\$182,704,318	\$516,957,131	\$790,391,664
Per cent of free	43.21	45.82	44.90

The table shows that before the panic of October, 1907, there was a steady and in many cases a large increase in imports. It covers more than three-quarters of the total dutiable imports. It proves conclusively that the duties are far from prohibitory, and that in some cases they are not adequately protective, if protection is to be the policy of the country. Some increase was natural, owing to gain in population and purchasing power, but domestic industry should be allowed to meet most of the increasing demand, hence Congress will naturally take each case of large increase and inquire whether or not the prosperity of the domestic production of the article has been affected.

Anticipating that inquiry, I have by circular asked one thousand manufacturers and merchants what tariff changes the experience of their own business suggests. In replying, a few have followed the vogue of the last three years and in general terms recommended reduction all along the line, giving no specific reasons for it, and not confining themselves to their own business. This, of course, is not helpful. Many, however, particularize and in most cases show that present duties should be increased, or the classification or basis of computation changed, or that customs regulations should be modified so as to effectuate and not defeat the law. This information, like the foregoing table, will doubtless be a great surprise to most of those who have called for reduction, and yet no honest protectionist can ignore or lightly consider it, because it is the result of experience. As briefly as possible I will specify some of the changes thus far suggested.

1. *Lithographs* (included in "books, music, etc," in the foregoing table). The importation has doubled in seven years, although our people are amply equipped to meet their own needs. There is an obvious incongruity in the duty of 20 cents a pound on paper not exceeding .008 of an inch in thickness, and only 8 cents on paper between .008 and .020, exceeding 35 square inches in size and less than 400 square inches; for show cards 16 x 24 of the first class, weighing 100 pounds per 1,000, bear a duty of \$20, while an equal number and size on a slightly heavier paper, say .009 of an inch thick, weighing 112 pounds, bear a duty of only \$8.96. Then if the size is changed to 416 square inches, the duty is *ad valorem*. There are no technicalities in the business which call for these distinctions. Congress can easily substitute a compound duty which will

be simpler and more effective. The wage of a skilled lithographer in Germany is about 30 marks (\$7.14) a week. Similar work here commands \$22.00 to \$50.00.

2. *Brushes.* It will be seen by the table that the import has increased 60 per cent under present duties. A western manufacturer writes that his strongest competitors are now the Japanese. Their wages do not average more than 25 cents a day, while he pays an average of \$1.55. Clearly the duties need raising if labor is to be protected, and certainly \$1.55 a day is not too much, where skill is involved.

An eastern manufacturer writes that imports are one-fourth of the country's supply. He thinks that instead of being reduced the duty should be raised to 50 per cent for protection against Europe alone. It is now 40.

3. *Brush Fibres.* Tampico or istle is now in the free list and should remain there, because it is not produced in this country. It is dressed in this country by machinery made at Burlington, Vt., which does better than hand work and at one-half the expense. This industry is protected (partially) by a duty of 20 per cent. It has recently transpired, however, that in England the purchasers of this machinery cannot afford to operate it, although the wage paid is only one-half that paid here, because of the competition from Germany and Belgium where wages are so much lower. Do these facts suggest lower or higher duties in the United States?

4. *Cotton Manufactures.* With a larger and better equipment in this country than ever before, seventy-three million dollars' worth of cotton goods were imported last year. The table shows great increases of nearly all kinds. Thus far not one manufacturer or merchant has specified to me a duty that he thinks can be reduced with safety, but two have said that the coarse goods would suffer least from it. Laces, edgings, embroideries and fancy weaves are the newest domestic cotton manufactures, and they have to compete with almost the cheapest labor in Europe. This competition has practically doubled in the last seven or eight years. The same is true of cotton knit goods, especially under the new administrative arrangements with Germany and France. Yet prices have not increased correspondingly with the prices of raw cotton and other supplies and with wages.

Last year's import of cotton manufactures equaled the total
(276)

production of three of the largest cotton manufacturing cities in this country—Fall River, Lowell and New Bedford. It nearly equaled the product of Maine, New Hampshire and Rhode Island combined. It surpassed the product of all the Southern states except the two Carolinas, and of all the Middle and Western states combined. It is a tremendous fact to be reckoned with, and as cotton machinery has been very largely increased during the last five years in England, Germany, Italy, and Japan, and the cost of ocean transportation is so small as to afford little or no protection, what changes in our duties do these facts suggest?

5. *Clocks and Watches.* The introduction of American machinery in Europe has naturally resulted in an increased import of watches. Sales of certain American watch movements abroad at lower than home prices and their reimportation for advertising purposes (as is claimed by domestic manufacturers), have created some public demand for lower duties. The great Waltham works are now closed for want of orders. Domestic manufacturers have not yet indicated what, if any, changes in duties are needed. Prices are so low that every citizen can own a good watch if he is in the least thrifty.

6. *Corundum.* Nearly all the pure corundum that is used in this country comes from Canada and pays a duty of \$20 a ton, which is considered to be for the protection of a patented artificial product which is said to be marketed under restrictions that amount to favoritism. A manufacturer of grinding wheels thinks the present duty a misapplication of protection.

7. *Fibers and Manufactures of.* The large increase in the import of jute bagging, bags and burlaps does not seem to cause domestic manufacturers to ask for a change of duties, but probably the anomaly of the situation will of itself call for investigation by Congress.

8. *Hides of Cattle.* The agitation of this subject two or three years ago quieted down after the Democratic leaders in Congress gave notice to the shoe manufacturers that they would not consent to a repeal of the 15 per cent duty without a guaranty of reduction in the prices of shoes. As the shoe and harness industries have greatly prospered, the duty is not considered a serious burden, and the agitation for its repeal was largely political. One of the

worst effects of the duty grows out of the drawback on exported leather. The foreign buyer demands and usually gets a concession of the whole or a part of this drawback and thus has an advantage over the domestic buyer. A large manufacturer of shoes suggests that if the duty cannot be repealed the drawback had better be.

9. *Iron and Steel.* The greatest demand for revision has been directed against the iron and steel schedule. It is the cause of the agitation carried on by the National Association of Manufacturers, which is dominated by the vehicle and implement and agricultural machinery manufacturers and some other large consumers of iron and steel. They claim that by reason of the duty, or of combination, or both, the iron and steel producers have been making excessive profits, although their calculations do not allow for the cost of developing mines and transportation facilities and the substitution of new for old processes. Neither have they given the producers credit for maintaining steady prices during a period of great and increasing demand, when higher prices could have been exacted.

It remains to be seen what effect the reduction in prices on sheet and tin plates, which was made early in the year, and on iron ore, billets, sheet bars, plates, structural iron, merchant pipe and wire nails, which was made on the 9th of June, will have on the demand for a reduction of duties. The above table, however, shows considerable gains in imports of nearly all iron and steel shapes, and as there are European syndicates formed for the purpose of aggressive exploitation of foreign markets, changes should come only after exhaustive inquiry, if at all.

Although the largest corporation in the world has been formed in this industry, domestic competition and foreign competition have both increased under present duties, and if the duties are reduced the domestic competitors of the so-called trust will be likely to suffer more than the trust itself. This was the testimony of many independent manufacturers before the industrial commission. The force of this domestic competition, which is claimed as one of the triumphs of the protective policy, is seen in the recent reduction in prices. There are people who think that American industries, whether combined or not, which cause an economic price by large development and by concessions to normal market conditions, are of more importance to the country than any possible benefits derivable from abroad.

10. *Oil, Mineral.* It has been suggested, not from the industries, but by tariff reformers, that a fraud was perpetrated upon the country by adding an exception to the mineral oil clause in the free list, making the import dutiable when it comes from a country which puts a duty on our oil. There does not seem to be proof of any fraudulent intent, and the reasonableness of the exception is evident. The import of dutiable oil, though small, has largely increased and there is a much larger import of free oil, which shows that the claim that only one country could send it to us is not true. It should be borne in mind that the Standard Oil Company is not the only domestic producer and that if it were it is entitled to justice. The relative smallness of the import to the domestic product, however, makes the duty too small to talk about.

11. *Paper and Pulp.* The unfinished hearing by the Mann committee went far enough to convince the majority that the duty is not responsible for the advance in price and that if it were repealed or reduced, foreign exporters and not domestic consumers would get the benefit. The demand for repeal was made by well-known advocates of free trade, who had become officers of the American Newspaper Publishers' Association, and although the association gave them authority to attack the duty, the facts had not then been developed, and many of the members now sustain the committee's finding. In the general revision there may be some change in the duties, but no change is probable which will aim a blow at the pulp and paper industries.

12. *Silk.* Not one recommendation has been received for modifying the silk duties. Although the import is still large, the domestic product has steadily increased and become so variegated that only special patterns now need to be brought from abroad. It is a testimony at once to the wise adjustment of the duties and to the enterprise and skill of American manufacturers that this important industry is so well established and so prosperous and that its products are so reasonable in price that no demand seems to have arisen for any important changes of duty. The industry has fully justified its protection. The value of the domestic product has increased from \$87,298,454 in 1890 to \$133,288,072 in 1905.

13. *Starch.* The duty, 1½ cents a pound, applicable also to all preparations used as starch, was collected for a year or two and then by some strange ruling it was no longer applied to tapioca

and sago flours, which are largely used as substitutes for potato and corn starch. The import of these flours last year was 58,391,075 pounds. The government lost its revenue and the starch-makers lost their protection. Starch making is threatened with ruin unless this mistake in administration is corrected.

14. *Sugar.* Strictly this article does not belong in the foregoing table of imports which have increased, because sugar imports have declined, but I wish to call attention to the fact that they are still large. Our sugar beet production has increased so rapidly as to indicate a continuance of present duties. In 1905 there were fifty-one establishments, with a daily capacity of 35,900 tons of beets. They were located in fourteen states and territories. In five years there was an increase of 70 per cent in the number of establishments, 177 per cent in the capital, 101 per cent in the number of wage earners, 127 per cent in wages paid, and 233 per cent in the value of the product—all this in spite of freer importation of cane sugar from our insular possessions and from Cuba. The only demands for reducing the duties are from consumers or competitors, and they are much less insistent than they were a few years ago, because the increasing supply tends to reduce the price.

15. *Wood and Manufactures of Wood.* There has been a great demand for reduction or repeal of the duties on lumber, on account of the large advance in price and a fear that we are too rapidly using up our supply. It is now admitted, however, that the price is not chargeable to the duty, for it remained the same for some time after the duty was enacted, and that if the duty were to be taken off the price would remain the same while the demand is great. The only effect of repeal, therefore, would be that our treasury would lose the duties and foreign exporters would save them. It should be added that this would slightly conserve our forests, but only at the expense of employment. Logs for boards and pulp are already admitted duty free.

Where scientific forestry is practiced there can be a large annual cut without exceeding the growth, and it would seem that this is the direction which the legislation should take rather than repealing the duties and turning one of our largest industries over to Canada. In 1905 there were in all parts of the country 19,127 saw and finishing mills, with a capital of \$517,224,128, employing 404,626 wage earners, and turning out a product valued at \$580,-

022,690. This does not include the great industry of logging, in which there were 12,494 establishments, with a capital of \$90,454,494, and employing 146,596 wage earners, to whom \$66,989,795 were paid.

In view of the magnitude of the industry, its existence in every state and territory, the means which are coming into use for preventing waste and the planting that is taking place, besides the certainty that a repeal of duties will not reduce the price, the only recent suggestions of change in the tariff are to offset any export duty which the Canadians may place on logs. It cannot be known in advance precisely what form this should take.

16. *Wool and Woolens.* This is the most difficult schedule in the entire tariff, because wool growing must be protected and manufacturers must be allowed an extra duty to compensate for it. The present schedule is the result of years of conferences (battles some have called them) between the growers and the manufacturers and of long study by experts and by committees of Congress. While some of the manufacturers would like lower duties, particularly on carpet wool, and while dealers as well as manufacturers would like to substitute an *ad valorem* duty for a specific duty on heavy shrinkage wools, so that they would not have to pay for grease and dirt, yet the difficulties of agreeing are so great that most of them say they prefer a continuance of existing arrangements to the evils that they know not of. In products which have to compete with cotton goods, like hosiery, the wool duty is said to force a large use of poor shoddy, but just how to remedy it and still protect wool is an unsolved problem.

Notwithstanding other branches of agriculture have been increasingly profitable and tempting, sheep husbandry has held its own and gained moderately as a result of protection. The gain would have been much larger, especially in New England, New York and Ohio, but for the dog nuisance. An increase of sheep for both wool and mutton is most desirable, hence, in the interest of consumers, tariff changes of a discouraging character should not be made.

The woolen and worsted manufacture has made gratifying progress. In 1905 the capital employed in it was \$370,861,691, the wages paid \$70,797,524, and the value of the product \$380,934,003, the last item showing a gain of 28.3 per cent in five years.

Improvement in the quality of the product was equally marked, some of the mills now turning out cloths that compare favorably with the best made abroad and at lower prices.

It remains true, as demonstrated by Senator Aldrich in 1894, that if the whole duty on wool were added to the cost of a five pounds suit that ordinarily retails for \$20, it would increase the cost only about sixty-five cents, and most of it would be shared by the manufacturer and dealer.

17. *Works of Art.* There seems to be a more general demand than ever before for a repeal of the duty on works of art. It was not designed and has not been maintained for protection, but for revenue only, although this has not been generally understood. Such works usually become a valuable possession of the public after a period of private ownership and are generally enjoyed by the public from the first. There will certainly be no opposition to the repeal on the part of protectionists.

Whether the duty is removed or not, the law should be amended so as not to exempt articles involving a great deal of labor, like large, polished and elaborately carved marble altars (not antiques), which are now made in this country at more than twice the foreign labor cost, and which are manufactures rather than products of individual genius.

18. *Scientific Instruments.* The exemption from duty of scientific instruments for educational institutions greatly discourages their production in this country, although the manufacture here is able to meet nearly every need. There is complaint of the injustice of requiring an industry that has to be conducted under the conditions of protection to sell under the conditions of free trade.

19. *Better Administrative Features.* The modifications of the treasury regulations embraced in the compact with Germany and since extended to other nations have developed strong opposition, and without doubt several changes in the law will be proposed to secure an execution according to its purpose. This subject is highly controversial and suggestions will necessarily await the testimony of experts.

20. *A Customs Court.* A leading New York business journal has recently proposed that a customs court be established, so as to relieve the over-worked district and circuit courts and secure a more prompt and expert decision of cases that are appealed from

collectors and the board of general appraisers. This has for some time been a growing need and Congress will be likely to give it careful consideration.

The foregoing suggestions are presented as indicative rather than comprehensive. Once revision is entered upon there will be recommendations of many small changes, some of which will undoubtedly be found meritorious.

Rates and regulations which take into account only the difference between foreign and domestic labor cost are not up to date. When a foreign state-owned railroad carries goods for export at only one-half its domestic rates, it practically pays a bounty to its producers for exploiting foreign markets. Why should not that indirect bounty be offset by an extra duty, the same as a direct bounty is now? It is a practice for railroads and steamships to make joint rates on through bills of lading, and this has caused millions of dollars' worth of foreign goods to be delivered throughout the trunk and gulf line territory of the great Central West at a lower cost for freight than domestic industries can secure for a much shorter haul. Thus European crockery is delivered at St. Louis, Chicago and St. Paul for a smaller freight charge than is made to those points from Trenton, New Jersey. This practice must be broken up or protection will be largely nullified.

It seems appropriate to say in conclusion that if the protective party is again intrusted with power its revision should be based upon facts, and not upon clamor raised by the other party. If the facts do not justify reduction but call for increase, the party must have "the courage of its convictions." It has been common to say that only principles and not schedules are sacred. Schedules, however, become the expression of principles and are just as sacred as any other law while they last. Rates must be sufficient or protection fails.

WHAT OUGHT THE TARIFF RATES TO BE ON IRON AND STEEL MANUFACTURES?

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The question, what ought any tariff rate to be? is one that cannot be satisfactorily answered in the absence of an accepted criterion of the "ought"—an understanding to whom exists the obligation implied in the word, and how that obligation was incurred. Without such a criterion and understanding our hands are tied at the very outset. We might listen to those who would tell us that the paramount obligation of government is to vested rights—however they may have come to be vested—and so be convinced that no tariff ought to be changed without the free consent of the beneficiary. We might be persuaded by those, on the other hand—fully equal to our first supposed advisers in patriotism and intelligence—whose fundamental maxim is that government has no right to limit the liberty of any citizen further than is necessitated by the equal rights of other citizens, that any tariff rate at all, higher than is needed for the bare existence of government, is an infringement on the people's rights. From either of these antagonistic points of view the question is already settled, without argument. The fact that it is proposed for discussion evidently indicates some intermediate criterion, which should be strictly observed and distinctly stated.

For the purpose of this discussion I shall therefore assume, without undertaking to prove them, the following postulates:

(1) The continued production of iron ores, of pig iron, of ingot steel, and of iron and steel manufacturers in the United States, in some such quantity as at present, is desirable.

(2) Therefore, any diminution of the tariff duty on such products, as will by cutting down the profits of production considerably reduce the amount produced, is not desirable.

(3) But any diminution that will not considerably reduce production is desirable in proportion as it makes the completed manufactures cheaper to the consumer.

(4) Accordingly, the tariff rates ought to be reduced to the extent thus defined, no further.

In the practical application of these assumed principles, we meet with the difficulty that the information particularly required can be had only by experiment, and that no experiment under precisely corresponding conditions has been made. But we can pretty safely infer, other things being equal, that if the cost of production in this country exceeds that in the best-equipped competing country by a certain amount, that product will continue to be produced if the duty is not reduced below that amount; that if any product can be sold at a certain price, more of it will be in demand at a lower price; and that the more widely distributed the source of supply of any commodity, the less subject its price will be to sudden fluctuations.

Inquiring what is the excess cost of production of iron and steel in this country, we find that for a full half of it no excess exists, and that for a considerable proportion there is a large difference the other way. To the cost of pig iron, as produced by the United States Steel Corporation, we have some concurrent testimony: first, for 1899, that of a paper prepared for the British Institution of Civil Engineers by the Messrs. Head, afterward quoted with approval by Mr. J. S. Jeans, secretary to the British Iron Trade Association. According to which the cost of a ton produced in Pittsburg was $32\frac{1}{2}$ shillings, or \$7.90, while that produced at Middlesbrough cost 52 shillings 2 pence, or \$12.70—fully 60 per cent higher; second, the independent calculation in Mr. J. Russell Smith's recent article on "Cost and Profits of Steel-Making," written in 1907, according to which the cost of material is \$7.00 and the entire cost \$8.00 for a ton of pig iron. I have reviewed Mr. Smith's figures, and, though prepared to admit that his \$3.00 for ore may be somewhat too small, even though the corporation owns the mines and the transporting railways and steamer-lines, I am sure that his \$4.00 for coke and limestone is decidedly too large. In the English estimate for 1899 the ore slightly exceeded \$5.00, while the coke and limestone together amounted to but \$1.80 at Pittsburg. True, coke sells anywhere from \$1.00 to \$4.00 a ton, or even higher in feverish states of the market, but its cost is another story. In fact, a properly managed coke oven will pay for all the cost of its raw material and labor, repairs and depreciation, with its

by-products, gas, gas-tar and ammonia, leaving the coke without cost. Mr. Smith himself proves this by his figures, and afterwards appears to forget it in his estimate of cost. He would be quite right in rating this material as highly costly, calculating on the wasteful methods of preparation that have been heretofore too common in Pennsylvania. But with improved methods, the corporation owning the coal mines and the ovens, he allows too much for it. For pig iron produced under the best conditions, as by the Steel Corporation or the Jones and Laughlin works, we might estimate the cost of iron ore at \$3.75, instead of \$3.00; that of coke and limestone at \$1.75 instead of \$4.00, "while the labor and maintenance charges add but another dollar," making \$6.50 in all, which appears to me a decidedly closer estimate than \$8.00.

This, it must not be forgotten, is confessedly a "bottom figure;" the top figure for cost is naturally the market price of the iron, which is usually \$15 to \$20 or over; and there may be all grades between. For an average cost we must refer to the figures of the United States census of manufactures, which show for 223 establishments engaged in the manufacture of pig iron in 1900, reduced to 190 in 1904, the aggregate expenditures for salaries and wages, materials and miscellaneous, were respectively \$159,755,409 and \$210,555,407, producing 14,447,791 and 16,623,625 gross tons of iron, which therefore cost (without allowance for depreciation or repairs of plants) \$11.06 and \$12.67 per ton. Of this total increased cost of \$50,800,058, about 69 per cent (\$35,042,447) was increased cost of ore consumed, and over 93 per cent (\$47,438,263) was increased cost of all materials.

Comparing the British cost of production at Middlesborough, quoted above, with the average just obtained from United States census data, we find a correspondence practically exact for 1904. If we assume British costs unchanged since 1899, and other things equal, it would follow that more than half of the United States production in 1904 could have been sold without loss at free-trade prices. But there is no exact correspondence between the figures used in this comparison. The English figures include a small allowance for repairs, etc., which the United States census figures have not. But a more important difference between them is the date to which they apply, in years of rapidly advancing prices. In that view, the Middlesborough \$12.70 for 1899 ought not to be com-

pared with the census \$12.67 for 1904, but rather with the \$11.06 for 1900.

The cost of labor at the furnace per ton of product is an item of some interest. The English estimates for 1899 put this at forty-nine cents for Pittsburg and seventy-three cents for Middlesborough, the difference in our favor being due of course to greater use of machinery. Mr. Schwab is quoted by Secretary J. S. Jeans, of the British Iron Trade Association, as finding "that the best record for labor, etc., at the blast furnace per ton of pig iron was 41.1 cents, which included . . . time-keeping and superintendents' salaries," etc. This was for the Edgar Thomson Works in 1902. Mr. Frank Popplewell, of Manchester, in a "Gartside Scholarship" report on a tour in this country in 1904, says of one of Messrs. Jones and Laughlin's furnaces in Pittsburg: "The labor charges for operating this plant were stated to be forty cents per ton of iron; for repairs twelve cents per ton, and the total charges of labor, repairs, interest on investment, and depreciation, about \$1.00 per ton. This figure will not differ greatly at any of the works in the Pittsburg district where the same state of efficiency holds in respect to equipment." Mr. J. Russell Smith uses the same estimates identically, as seen above, for the Steel Corporation's costs, apart from material. So much for the most favorable figures; but figures less favorable could be given in abundance. In the same article Mr. Smith speaks of his investigation of "a comparatively small blast furnace," at which the labor cost "was for a recent year \$1.17 per ton," and explains the difference by "the fact that the economical Pittsburg furnace did not make its pig iron into pigs," but carefully observed that by sending it "a splashing liquid straight from the blast furnace to the converter, there is a saving of \$1.50, which would have been spent in making pigs and again melting them." This cost saved, of "making molds for the pig iron, running it into the molds, breaking it up, piling it, handling it, and finally loading it into cars," is very largely labor-cost. In Pennsylvania in 1906, by the report of the State Bureau of Industrial Statistics, 11,244,292 gross tons of pig iron were made at a total pay-roll expense of \$12,063,566, or \$1.07 per ton, which may or may not include salaries and office expenses. The wages per ton for the entire United States in 1904, by the census report, were \$1.14, or, when salaries of officers, superintendents, foremen and clerks

are included, \$1.31; the corresponding figures for 1900 having been \$1.28 and \$1.44. Three points seem to be made out by this examination: (1) That labor cost at the furnace is extremely variable in the United States; (2) that it is on the whole progressively diminishing, although the total cost of the iron is increasing; (3) that it forms but a minor part of the total cost of production, ranging from 5 or 6 per cent upward, about 10 per cent as an average.

In stating my fundamental assumptions I intentionally left the admissible reduction of production, by lowered tariff rates, somewhat indefinite. Reasonable men may widely differ as to the amount, some dreading the effect of any unsettlement of present conditions and others trusting confidently to the law of supply and demand and to the adaptability and ingenuity of our fellow-citizens to weather any changes. Taking the figures exactly as they stand, and supposing pig iron admitted free of duty without another change in the tariff, the evidence that it would continue to be produced in the country at a price from \$2.00 to \$4.00 lower than at present, to an amount never equaled here until 1901 (that is, more than half the present production), and without serious inconvenience to the laborers of the country, amounts to complete demonstration. It would be quite possible to add some weighty reasons for the belief that the proportion of iron so produced would speedily increase, and that after a few years the temporary backset would be no longer noticeable; but it would be unnecessary, for no one proposes to alter the tariff rates in that way. Any reduction of the rates on pig iron would be accompanied by a provision admitting iron ore free, which would make no practical difference to the corporations owning both furnaces and mines, but would be a decided encouragement to the furnaces for which ores have to be bought. It would probably be accompanied, also, by reduced rates on steel, and iron and steel manufactures, which would doubtless increase the demand for machinery and all iron ware in the United States, and thus arrest any alarming fall in the price of the crude metal. If carried out in these ways, I am convinced that the effect of an entire removal of the duties on pig iron would be altogether for good, but I would cheerfully consent to abide by the results if half were removed now and the remaining half as soon as the first step should be clearly recognized as beneficial.

With regard to the cost of production of ingot steel, there is
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very little to say further than Mr. J. Russell Smith has said in his *Journal of Economics* article. He lays stress, justly enough, on the wide differences for different establishments, and calculates the cost of conversion in Pittsburg at from \$3.50 to \$4, admitting that it might reach \$7.00 per ton for plants of less efficient construction, equipment, and operation." This gives, as a bottom figure, but \$10 for steel ingots, adding to which \$2.00 as the minimum for rolling steel rails, shows that the Steel Corporation could produce the rails for as little as \$12 under the most favorable circumstances; or, say, from \$12 to \$15 as a rule. A \$16 price would assure the trust a moderate profit, whereas the price it asks is \$28. For years our tariff was \$28, but it has now, by successive reductions, fallen to \$6.72. Since the English price is not less than \$20, and since for twenty years the cost of manufacture has been less in Pittsburg than anywhere on the globe, there would be no harm in putting steel rails on the free list.

Although most machinery and manufactures of iron and steel could by this time be admitted free without more than temporarily disturbing their production in the United States, so abrupt a change is not recommended at once. With free ores and pig iron, a general removal of half the duty could be made now without appreciable embarrassment of manufacturing, and this could be followed, gradually, by farther reductions. Free trade is the condition of stable equilibrium, toward which every adjustment should aim, be it slower or swifter in its action.

It is objected by defenders of the present high-tariff system that a lowering of duties, while it would only diminish the profits of the great corporations, would drive smaller producers out of business altogether, and leave our manufacturing more in the hands of the trusts than ever. There is much truth in this. Competition is always driving trades from those less able, to those more able, to stand it. The practical question is: how much is this country prepared to pay, out of the daily earnings of its people, to keep these smaller producers in business? They can be kept going, as long as we are willing to reach into our pockets for the means. But the necessity, or even the desirability, of maintaining people in doing anything in which others can serve the public more effectively, I did not include among my fundamental postulates.

TARIFF RATES ON HARDWARE

BY CHARLES W. ASBURY,

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Theoretically considered, tariff rates should represent the difference between the cost of production in the United States and in foreign lands. From a protectionist's viewpoint there should be, in addition to this, a margin of safety to provide against varying conditions. The costs of production are continually fluctuating, for the obvious reason that costs of raw material and of labor are continually changing. In times of great business activity the costs advance, and, generally speaking, in times of business depression the costs decline. Periods may come when the demand is far more active within our own borders than within the borders of our industrial competitors abroad. The tariff rates, therefore, should be sufficiently high to provide for these natural differences, and should be sufficient to fully protect those who work with their hands against the competition of the lower-priced labor elsewhere.

The real difficulty in undertaking to arrange tariff schedules scientifically is to determine the cost of production. Manufacturers of hardware have been giving most earnest study to ways and means of determining, with a fair degree of accuracy, their own costs. This is by no means a simple or easy task, especially if an attempt is made to manufacture a number of different lines of goods. It is comparatively easy to keep a record of the actual time of employees currently spent in the production of anything; but there are so many items of expense hard to apportion among the different lines, such, for instance, as supplies for the plant, non-productive help, etc. This apportionment must be the result of experience, and a corps of intelligent employees must be provided to keep currently the necessary records for use in determining costs. If, therefore, it be considered that the manufacturer himself finds great difficulty in determining accurately his own costs, then it is but logical to conclude that any congressional committee, or any body created by Congress, would find it almost an impossibility to determine, with any degree of accuracy, what the tariff rates should be upon the theoretical basis of difference in cost of

production here and abroad. In the case of hardware, it will be seen that the difficulties are magnified certainly beyond the average of other classes of manufactured goods.

The term "hardware" includes a wide variety of articles, ranging from those usually looked upon as raw material, because of the small amount of finishing they require, to that class of article which is highly finished, and upon which the labor forms a very high percentage of the total cost.

It might truthfully be said that 5 per cent duty would be sufficient upon the former, although it might be, that the latter would require a protection of 100 per cent or more. This statement is made with a thorough realization of the theory of arranging the tariffs to provide for the difference in the cost of production, as above explained.

There is probably little appreciation of the wide variety of goods usually classified as "hardware." As an illustration, a single item might be selected and divided into its correlative constituents. Take wire, for instance: First, we find wire in different metals—German-silver, aluminum, iron, steel, bronze, brass, tin, lead and solder. In iron and steel wire we have plain, galvanized and tinned. In copper and aluminum wire we have the large variety of insulated wires, as well as plain. We also have awl wire, baling wire, barbed wire, basket handle wire, belt hook wire, bookbinder and bottling wire, broom and brush wire, bundling wire, button fastening wire, crimping wire, dental wire, and in addition a large variety of wire cords, ropes, cables and wire cloth, as well as a large list of articles in which wire constitutes the chief raw material from which they are made.

It will be readily seen that the labor cost in many of these items is relatively higher than in others. Consequently if equitable tariff rates should be desired upon wire, each kind, quality and size would have to be considered by itself, and a rate made in accordance with the theory first advanced, that is, covering the difference between the cost of production here and abroad, with a fair margin to cover fluctuating conditions.

It will, of course, be understood that we have selected but one item usually classified as "hardware," whereas there are really thousands of items within the classification, ranging from such low-priced items as nails, tacks, and screws, to highly finished and ex-

pensive goods, such as razors, tools and even watches and clocks. It is, therefore, unthinkable to attempt to answer succinctly the question, "What ought the tariff rates to be on hardware?"

This same reasoning would apply to many other lines upon which there is no specific classification under the laws which have been enacted. Generally speaking, the magnitude of the task of framing an equitable and just tariff law is little appreciated. The law-making bodies, as at present constituted, cannot be expected to possess, or have the means of acquiring, the intimate knowledge of all of our industries, necessary for the enactment of scientifically perfect schedules in a tariff law. It has, therefore, been urged, in some quarters, that a permanent commission be created, with members appointed for life, or during good behavior, at salaries consistent with the responsibilities of the office, and with powers to call witnesses and appoint special agents for investigations at home and abroad, in order that each item may be carefully considered upon its own merits, after a thorough investigation of all of the conditions surrounding it.

The theory advanced by those who favor the creation of such a commission is, that it could keep well and currently informed as to each item and its fluctuating costs at home and abroad, making frequent reports to Congress of its findings, recommending the rates of duty which should be applied. It would be necessary to leave the ultimate fixing of rates to the Congress itself, but the reports and recommendations of the commission would probably be accepted by the public as dependable, and the maximum of confidence could, therefore, be placed in a tariff bill so created. Such a course, if adopted, would probably eliminate the cycle of business unrest which usually accompanies tariff agitation.

At the last session of Congress a bill was introduced authorizing the creation of a commission as above described, and Senator Beveridge advanced some very pointed and logical arguments in favor of it. He quoted section 193 of the tariff act now in force, in which section a large proportion of the articles usually classified as "hardware" are entered for customs purposes. This section reads:

Articles or wares not specially provided for in this act, composed wholly or in part of iron, steel, lead, copper, nickel, pewter, zinc, gold, silver, platinum, aluminum, or other metal, and whether partly or wholly manufactured, 45 per cent ad valorem.

Referring to this particular section Senator Beveridge said:

Under this paragraph our customs officers have subjected to a duty of 45 per cent ad valorem, stoves, implements, electrical apparatus, gold and silver boxes, tin or brass boxes, brass tubes for bedsteads, brass sheets, bronze crosses for churches, bullets, bull's-eye lanterns, buttons with metal shanks, carriages, carts, railway cars, automobiles, cannons, chafing dishes, chisels, church bells, coal scuttles, nails, copper wire cranks and shafts, drawing instruments, dress trimmings in which metal is the material of chief value, dyes, tools, pistols and other firearms, etc. These are only a few instances taken from an alphabetical arrangement of the tariff decisions, there are thousands like them and even more absurd.

Will anyone contend that a simple article like nails should have the same rate as an electric dynamo?

Is there any logic in classing buttons and stoves together?

Should bullets and buggies, should automobiles and bull's-eye lanterns pay the same duty?

Are farm implements and gold boxes in the same class?

Is there any connection between carriages and dress trimmings?

Is there any reason why cannon for war, and crosses for churches should be classified alike?

Yet all these are in the same classification and pay the same rates; but more absurd than this is the fact that they are put in the same classification by the appraisers and the courts passing on each article because Congress did not classify them at all. Nobody knew what duties these articles would have to pay until the guess of the appraisers and the courts filled up the holes in the law.

Much might be said in discussing the question of tariff broadly from a political standpoint, but I will refrain from any such attempt, confining myself to a business view of the subject. The present law has been severely criticised upon the ground that the average of its schedules is much higher than conditions warrant; also upon the ground that its schedules are inequitable, some being excessively high, while others are inadequate to afford a reasonable measure of protection.

Referring to the first objection, the protectionist says "it is a good fault." He fails to see the injustice of schedules higher than necessary. He argues that it makes little difference if it be admitted that the tariff rates should be thoroughly protective, whether or not higher duties are charged, because a protective tariff would minimize imports, and if the rate be higher than necessary, it will do no harm, because the same minimum applies.

Of course, the answer to this is, that certain combinations

might control the production of those goods which were excessively protected, in which event it would be possible for them to maintain abnormally excessively high selling prices, and thus do a grave injustice to the public at large. When we reach this point it naturally opens the door for a discussion of the trust problem with all of its complications, and upon this it is not my purpose to enter.

Referring to the second objection to the present law, namely, that its schedules are inequitable, this I think will be generally admitted, but it must be remembered that it is practically impossible to frame a law which will provide equitably for the thousands upon thousands of items necessarily to be considered in connection with our total imports and the great variety of our manufactured goods.

Some idea of the greatness of this problem might be had from the thought that nearly every object upon which the eye rests is included in the variety, and in order to provide equitable tariff rates, each single item would have to be figured separately, its cost of production obtained in some way, and the cost of the production of the same article in many foreign lands also ascertained. Such a task is almost too large for handling by the Congress of the United States or any other duly constituted body. It, therefore, becomes necessary to take certain aggregations of similar goods and combine them into single schedules in framing the tariff bill. It would seem to me, therefore, that the present statute is not properly subject to the severe criticism it has received. I am inclined to entertain a large measure of confidence in the ability of the men who framed it, although I am conscious of the fact that conditions have materially changed since its birth, and that a fair, reasonable revision would be beneficial.

In conclusion I will make an attempt to answer the question, "What ought the tariff rates to be on hardware?" in a general way by asserting my belief that the existing rates are not materially higher than they should be if fair, reasonable and equitable protection is to be given to the industries and their employees. Fortunately in the tariff question there can be no issue between employer and employee; their interests are coincident and parallel. Upon this question labor certainly secures its full measure of benefit without assuming the risks incident to the investment in property necessary to the industrial employer.

HIDES, LEATHER, BOOTS AND SHOES AND THE TARIFF

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As at present conducted, tanning hides into leather and manufacturing leather into boots and shoes are separate industries, but for the purposes of this article they may be considered as one. Together they form a very great industry. There is none in the United States which is naturally more capable of successful development. There is none which has been more impeded by the tariff. This great industry now calls loudly for a reduction of the tariff. Especially does it call for the abolition of the duty of 15 per cent imposed on hides by the Dingley tariff of 1897.

Hides are its raw material. Before 1897 they had always been free of duty, excepting the Civil War tax of 10 per cent, which was repealed in 1873. The effect of the duty on hides during the past ten years has been very injurious—injurious to the hundreds of thousands engaged in the industry and to the millions of consumers of boots and shoes. Here is a necessity of life whose manufacture is smitten with a blighting tax at the very point of its origin. The United States does not produce more than two-thirds of the number of hides required therein for making leather. Even with a 15 per cent duty, one-third of the needed supply must be imported from various parts of the world, principally from South America. The situation, therefore, is one to make such an impost upon a raw material like hides peculiarly disastrous to the prosperity of the industry, while peculiarly advantageous to the few who benefit from it. Where so large a proportion must be imported, the effect of the duty is not only to raise the cost of the imported supplies, but to give an advanced and artificial price to hides produced within the United States. These are concentrated for the most part in the hands of a few owners, to whom this advantage inures. The farmer or cattle-grower gets little or no benefit from the artificial price of hides, because, being a by-product and constituting but a small part of the value of cattle when slaughtered, the

increased price of the hide does not enter perceptibly into the amount received for cattle going to market. The injury, however, to the leather and shoe industry in putting it at so great a disadvantage in competing with foreign nations in the hide markets of the world for the acquisition of its raw material is enormous. All those engaged therein realize this too well in its retarded growth and minimized profits.

This injury was foreseen when the duty was imposed in 1897, and a delegation of leather and shoe people went to Washington, while the new tariff bill was still in committee, and strongly argued against the placing of a duty on hides at a hearing given by the committee on ways and means. As the proposed duty was an entirely new feature in the tariff bill, hides having been free of duty for twenty-five years, and as there appeared to be no demand for such a duty, it was to be supposed that Congress would require cogent and positive arguments in its favor before confirming a new impost to which strenuous objection had been made. No one, however, appeared at the hearing in favor of the duty. The shoe and leather delegation were politely promised that full consideration would be given to the arguments advanced in opposition, and went away hoping and believing that they had won their case, because, as it had been developed at the hearing, it seemed to be a very clear and one-sided one in their favor. But some secret influence was at work which did not come into the light, and the duty was imposed without public reasons in its favor and against the protests of the representatives of the great industry which it was bound vitally to affect. That duty has been ever since a source of constant and increasing dissatisfaction to all the leather and shoe manufacturers of the United States.

In November, 1905, a delegation of more than thirty individuals, representing more than three-fourths in volume of these combined industries, visited Washington and laid their case before President Roosevelt, in the hope that he might be induced, by the urgency of the matter, to exert his official influence with Congress, at its then forthcoming session, in favor of the immediate repeal of the duty on hides. Nothing, however, resulted from this interview beyond the admission from the President of the importance of the subject and that it had given him anxious thought. Evidently he was then absorbed in other matters which he deemed of more consequence.

Besides, both President and Congress seemed to fear that any tariff change, even to correct a mistake that had been made, might result in opening up the whole subject of tariff revision, which was considered by them most undesirable at that time. The duty on hides remained, and somewhat later, in consequence of greater scarcity and the impediment offered to their importation by the tariff, the price of hides soared to an unprecedented height, causing disorder and confusion in the related industries, which intensified the result of the violent reaction and adverse conditions following the panic of last year. The duty on hides still continues to exert its adverse influence upon the leather and shoe industries, and those engaged therein are now turning their eyes to the extra session of Congress, which has been suggested immediately to follow the inauguration of a new President, in the hope that relief will then be afforded by repeal.

It is this particular measure of relief which all those engaged in the manufacture of leather and boots and shoes have in mind when thinking of tariff revision in connection with their own industry. Indeed, this removal of the tax upon their raw material cannot be denied them, with any justice, by Congress, when it is remembered that they are further handicapped in their business by the high duties which the tariff, in general, imposes upon imports. These duties have the effect of adding to their cost of production and at the same time diminish the foreign demand for their manufactured product, without giving them in return any corresponding benefit. The tariff adds to the large item of freight upon their bulky materials and upon their finished goods. It increases the cost of buildings, equipment, machinery and general supplies. In short, it adds to the cost of the manufactured article and at the same time, like the duty on the raw material, increases the quantity of capital required for a given amount of production. Then, again, as both leather and shoes are exportable articles, the demand abroad for them is restricted by the generally high duties of the present tariff, which prevents the importation of foreign commodities that otherwise would be sent to us in exchange for a larger exportation of leather and boots and shoes. As President McKinley said, in his last public utterance at Buffalo, "We cannot sell if we will not buy."

It is, therefore, most desirable, in the interest of this industry

and its further development, that there should be a general reduction of the present very high duties on imports, supplemented by reciprocity treaties with foreign countries, that would enable us to send them larger quantities of leather and shoes, which this country is specially adapted to produce, in return for various commodities in the production of which the natural advantage is with them. The manufacture of leather and shoes, in which our people are particularly skillful, is here capable of enormous development along these lines.

On the other hand, unless tariff changes be made in the direction of liberality, there is imminent danger that we shall lose the valuable export trade in these articles which we already possess. The markets of continental Europe are gradually being closed by exclusive duties, and it is now highly probable that England, our principal foreign customer for leather and shoes, will soon shut her ports to us unless her present liberal policy be met with tariff concessions on the part of the United States. An enlightened policy, such as is here suggested, it would surely seem to be part of wisdom for Congress to adopt, rather than one which, by heavy tariff duties, the avoidance of reciprocity treaties and a vicious tax upon raw material, tends to nullify, in part, the great advantage which the country possesses for the production of leather and its manufacture into boots and shoes.

The great oak, hemlock and chestnut forests of the United States supply abundant material of the best kind for the tanning of leather. Improved methods, the introduction of machinery and the employment of chemical analysis have aided greatly in reducing the cost and improving the quality of the product. Our shoe manufacturers are admitted to be the best in the world. Thorough organization, skill in making lasts adapted to all kinds of feet and the employment of machinery to an extraordinary degree, which is operated with a perfection and speed unequaled in any other country, have given to the United States the first place among nations in the manufacture of boots and shoes. Notwithstanding these advantages, the combined shoe and leather industry, as a whole, has not had the increase and development to which it was naturally entitled, nor has it yielded profits commensurate with those of other more favored industries. The shoe and leather manufacturers have never asked for protection or governmental aid.

They do ask now, however, to be relieved from the burdens which the tariff lays upon their industry.

Why should not the country be permitted to expand its industrial life along the line of least resistance, and why should not these shoe and leather industries be allowed full scope for the growth and development to which they are invited by natural conditions and the genius of our people, and thus be enabled to give profitable employment to many thousands more of our citizens?

WHAT OUGHT THE TARIFF RATES TO BE ON PAPER AND PULP?¹

BY CHESTER W. LYMAN, M. A.,
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The Republican platform promises revision on the basis of "such duties as will equal the difference between the cost of production at home and abroad, together with a reasonable profit to American industries." The paper industry is quite satisfied with this principle, and it asks for itself only the same application that is accorded to other industries.

Importations of paper and pulp during the past few years should be considered and if there were some kinds extensively imported that are, or might be, made in this country the corresponding duties should be increased, not for the sake of the manufacturer but to build up the country. Also articles made from paper should be so protected as to create a maximum demand for home-made paper. No duty should be lowered simply for the sake of increasing revenue, as the first and foremost object of the tariff is to build up the staple industries of the country by conserving the home market. Let revenue come from luxuries and from articles which cannot be made here.

We ask only enough protection to enable us to meet such conditions imposed on our industry by nature or law as we cannot overcome by capital, energy and brains. We want merely a duty that will make it unremunerative for foreign manufacturers to sell in this country at our rock-bottom prices. We want the existing business and we want the increment that is bound to come with the further development of the country, but we are not averse to the duties being so low that some inconsiderable quantity of paper may come into this market, believing as we do that the stimulus of potential foreign competition is not a bad thing for the industry, and that high duties invite criticism and attack.

In fact, we believe that when business is good and the demand

¹ While the following article is an expression of the writer's individual views, he believes it fairly represents the prevailing opinion held by paper and pulp manufacturers.

is equal to the supply, the tariff has little or no direct influence upon prices, and that its chief function is, during times of depression, to prevent outside supplies coming into a market already congested. Then it is that every ton of paper or pulp imported increases our unemployed labor and capital. There is now coming into this country a large quantity of Canadian pulp and paper. There are shipments also from Germany, Norway, and elsewhere, although many of our paper and pulp mills are shut down from lack of orders.

When consumption falls off, the manufacturer must curtail production, which increases the cost. This increase he cannot overcome without reducing wages. At such a time he can ill afford to compete with foreigners for the scanty home demand. It would certainly tend to revive business to have a maximum tariff to apply in bad times and a minimum for good times; to exclude importations when we can make more than we can use; to admit them when we cannot.

Pulp, paper, and manufactures of paper are covered in the Dingley tariff by Schedule M, which is the result of gradual growth and is not laid out on any systematic plan. It is a question, however, whether it is worth while to destroy the continuity of growth by any rearrangement on more logical lines. This is a matter that those charged with revision will have to consider in connection with the tariff as a whole.

The duties on paper are substantially the same as they were both under the so-called "Wilson revenue" act and under the avowedly high-protection McKinley act, and are, on the whole, very much lower than the general average. The duty on ground wood pulp, reduced to an ad valorem basis, amounts to from 8 to 13%, according to market prices; on chemical pulp, about the same; on news paper it amounts to about 15%; on book paper to from 15 to 20%, according to grade; on writing paper it varies according to weight and quality from 25 to 32%. A few high grade papers and specialties have higher duties, but the average duty, reduced to an ad valorem basis, on all imports of paper during the year ended June 30th, 1907, was only 27.63%, whereas for all merchandise it was over 40%.

The total value of paper and manufactures of paper imported increased from \$2,838,738 in 1898 to \$10,727,885 in 1907; and of pulp from \$601,642 to \$6,348,857. It is certain that with higher

duties much of this paper and pulp could have been displaced by domestic product. This is particularly true of pulp.

Some European countries make various grades of paper requiring great skill and experience and the application of much labor, the manufacture of which could doubtless be established in this country by means of higher duties. However, it may come about that these papers will be made here without additional protection in the natural evolution of the industry, which, like many others, started with the lower grades but has been working up to the higher grades most promisingly.

Capital is turned over in the manufacture of paper more slowly than in most industries, which means that the profit on the output ought to be correspondingly larger to make a fair return. This would entitle paper to higher duties than other commodities rather than lower, if the attempt is to be made to protect a "reasonable profit." This important fact, we believe, has been entirely overlooked in the past.

While the industry has grown enormously, as a whole it has never been extremely profitable, competition frequently having been so fierce as to be destructive. Even before the prevailing depression most branches of the business had reached an acute state of unprofitableness, and it is safe to say that the lowering of tariff rates, extending as it would the scope of competitive production, would prove very disastrous.

Capital employed in the paper business has been frightened by the attacks which have been made upon it under the leadership of some of the newspaper publishers, and the Republican party, if it remains in power, should deal with the revision of the paper schedules in a liberal and reassuring manner. The opportunities for further development in this country have by no means been exhausted, but progress is certain to be retarded by hostility manifested in any manner, particularly through legislation.

The proposition to reduce or repeal the duty on pulp has no more merit than the similar proposition in reference to paper. The fact is ignored that pulpwood is on the free list. We do not need to import both pulp and pulpwood. It is certainly better for the country to have the latter imported and manufactured here into pulp. The pulp industry is in itself an important one, the amount of pulp made to sell amounting in value to many millions of dollars a year.

Pulp is therefore far from being a raw material and it would be manifestly a discrimination against pulp manufacturers to deny them the same kind and degree of protection accorded to other industries. Moreover, pulp-making is a most important part of the process of paper-making where the two processes are combined in one plant, as in the majority of cases. It requires proportionately as much capital and labor as the after-process of converting the pulp into paper. It would be extremely illogical to cut the process of paper-making in two in the middle and provide less protection for one half than for the other.

The Republican platform proposes minimum and maximum schedules, the latter being intended "to meet discriminations by foreign countries against American goods entering their market." This feature of the tariff would not be available in case Canada should continue or extend her discrimination against this country in connection with the exporting of pulpwood. Therefore it would be safer to frame the paper and pulp schedule with the particular end in view of meeting Canadian efforts to transplant the industry from the United States to its own borders.

We would like to see in our tariff an "anti-dumping" provision such as Canada has, which practically makes it impossible for foreign manufacturers to sell their surplus in her market at lower prices than those prevailing at home; and the countervailing or retaliatory clause which is now a feature of our paper and pulp schedules, providing an increase in duties corresponding to discriminations by foreign countries in restricting pulp and pulpwood exportation, should certainly be modified to render impossible certain evasions which now are practiced.

In marked contrast with the Republican program, the Democratic platform singles out the paper industry for attack in this plank:

Existing duties have given to the manufacturers of paper a shelter behind which they have organized combinations to raise the price of pulp and paper, thus imposing a tax upon the spread of knowledge.

We demand the immediate repeal of the tariff on wood pulp, print paper, lumber, timber and logs, and that these articles be placed upon the free list.

It is well known that this plank originated with certain newspaper publishers who tried to get Congress last winter without investigation to place paper and pulp on the free list. Having failed

in that attempt, and having received no encouragement from the Congressional Investigating Committee, they nevertheless tried to get an endorsement of their proposition in the Republican platform, but without success. They have shifted the grounds a number of times on which they based their plea for free paper and free pulp. Among the reasons they have advanced are that putting these articles on the free list will prevent the destruction of our forests; that there is a monopoly of production in this country; that there are combinations in restraint of trade, resulting in extortion, and that the alleged high price of paper is a "tax upon intelligence." Their aim is to keep down the price of newsprint paper, irrespective of the welfare of the paper industry, or of the importance of this industry to the country in the development of its natural resources, in the employment of capital and labor, in the support of allied industries, and in the traffic it affords to transportation companies.

It would be impracticable to admit print paper and wood pulp free of duty without disturbing the whole industry. Wood pulp is the chief ingredient of half the paper made in this country and is used to some extent in almost every grade. In 1850 the value of the total output of paper in the United States was about \$10,000,000; in 1905 the value of the output of the paper and pulp mills was \$188,715,000. This rapid growth has been maintained up to the close of 1907. The output for that year must have reached \$225,000,000.

It would seem to be the utmost folly to tamper with any policy or conditions precedent to such results. It is no less the function of a protective tariff to maintain and promote the growth of industries than it is to set them upon their feet. This industry that appeared full-grown in 1895 has almost doubled in size since then. How different would have been the result in tangible gain to the country if, when the Dingley tariff was framed, the argument had prevailed that the industry no longer needed protection and we had thrown our market open to the world. Mature as the industry then appeared, it was, in fact, infantile in size and methods compared with its condition today. Under wise guidance the industry can and will maintain this rapid rate of growth and improvement in methods for a long period to come, if protection is not withdrawn. For example: In the South are abundant water-powers and ample supplies of suitable wood, to say nothing of the annual waste

of hundreds of thousands of tons of materials, such as cotton-stalks and seed-hulls and, in various sections of the country, flax and other fibrous plants.

Besides upwards of 4,000,000 tons of annual product, the paper mills furnish freight in the way of raw materials, supplies, etc., to the common carriers of the country, roughly estimated at four tons for every ton of product, or 20,000,000 tons of freight annually. They consume annually not less than 3,000,000 tons of domestic coal and sustain a large number of establishments which manufacture wholly or to a large extent machinery and supplies used only in paper mills. They furnish employment directly to nearly 100,000 operatives in the manufacturing plants, and to probably 50,000 in the woods, besides indirectly supporting the labor entering into the manufacture of the machinery and supplies which they purchase. It has been estimated that for every dollar which the consumer pays for paper, seventy cents goes into the common wage-fund of the country. Paper manufacturers in many sections of the country have been the pioneers, stimulating the building of railroads to new points, building up thriving villages, and even cities, and utilizing water powers that had previously gone to waste, for which there might not be any other demand for years to come. In 1905, 43% of all the water power developed in the United States was used by paper and pulp mills.

The industry furnishes one of the most valuable uses to which certain kinds of wood may be put. Timber that has a value on the stump of, say \$4, by the application of American labor and the use of American materials is converted into a product worth from \$40 to \$100, according to the kind of paper for which it is used. All these facts, and many more which might be adduced, serve to demonstrate the seriousness of taking a step that would surely check the growth of the industry, if not partially ruin it.

We have as our neighbor on the north a country which has at least equal natural advantages for making some kinds of paper, where without question the industry would have reached much larger proportions but for the fact that our duty upon paper and pulp has given to the United States manufacturer a slight advantage in supplying our market. The result is we have not only an abundant supply, but the industry as well.

Has the effect been to increase the price of paper in the United

States? On the contrary, the price has, with slight fluctuations, gone steadily downward. Better news paper, for example, is furnished to-day at $2\frac{1}{4}$ cents per pound than was furnished twenty-five years ago for from 6 to 8 cents. The cheapening of paper has in turn increased the demand enormously, but the increase in the capacity of our mills has never failed to keep pace with the requirements of publishers and other consumers. The normal condition, in fact, has been one of over-production.

Being assured by the existence of the tariff that the natural increase in demand in this rapidly-growing country would inure to the benefit of domestic manufacturers, capital has been readily available. Only in a country where practically an unlimited demand for its product was assured could the scale of manufacture have reached such proportions as it has in this country. Throughout all the processes of manufacture of pulp and paper larger units prevail here than in any other country, except to the extent that American machines, ideas and methods have been appropriated elsewhere. Our pulp machines, our paper machines, and our plants are larger than in any country in the world. Thus to the conservation of our market is directly traceable the cheapening of production, resulting in lower prices, although we pay higher wages than are paid in the paper mills of any other country, two or three times those in European countries and considerably higher than in Canada.

If the duty is removed we must either force down wages in this country or transfer a large part of the industry to Canada. It would seem that this industry had justified its claim for future protection by past performance.

It has been urged that the duty should be taken off wood-pulp papers in the interest of forest preservation. There is no ground whatever for the claim that the removal of the duty would be for the benefit of our forests. Many erroneous impressions prevail on this subject. In the first place there is no duty whatever upon pulpwood. As long as we can get pulpwood free of duty there is no substantial advantage to be gained by having free paper, or even free pulp. In the second place, great as is the quantity of wood used by our mills, it is, according to the Forestry Department of the United States, less than 2% of the total annual drain upon our forests, and, according to the best estimates available, the quantity of any one species used for paper is less than the annual growth.

More wood is used for railroad ties than for pulp, and more for shingles, and vastly more for fuel. Almost every form of forest product, excepting pulpwood, is protected by a duty. If the forests are to be preserved for use, which is the doctrine of the Forestry Service of the Government, for what better purpose could the wood be used than to supply an industry which adds so great an increment to its value before it reaches the consumer in the form of a most indispensable commodity? For paper there is no known substitute; for many of the uses to which lumber and other forest products are put there are various substitutes available. Finally, if the duty were removed from paper and pulp, the manufacturers who own timber lands would be compelled to strip them, as they could not afford to continue their present conservative methods of lumbering in the face of competition with Canadian mills.

One of the reasons given in the Democratic platform for the removal of the duty from paper and pulp is the alleged existence of combinations or monopolies. It is only necessary to treat this phase of the subject in connection with newsprint, as newspaper publishers are the instigators of this charge, and they are avowedly interested only in so far as the price of news paper might be affected. In the recent congressional investigation of the paper industry, the newspaper publishers signally failed to show any combination in restraint of trade, or any other combination which in any way controlled the price or production of newsprint. The paper makers on the other hand, proved that while an advance in the price of news paper took place last year, other grades also advanced and prices went up simultaneously in the principal markets of the world. The advance in this country was shown to be due to natural causes, such as the increase in the cost of labor and pulpwood. They showed that there had been absolutely no curtailment of production, which has since been confirmed by Government statistics showing a large increase in the consumption of pulpwood in 1907 over 1906. They showed that a large number of newsprint mills were manufacturing and selling their product entirely independently of each other and that the largest producer made only 35% of the total output, whereas ten years previously it made 60%.

It was developed at the investigation also that the manufacturers of newsprint paper were not making any inordinate profit,

but, on the contrary, that most of them were securing but meagre returns. The Department of Justice also has failed to find any infraction of the anti-trust laws on the part of the newsprint paper manufacturers.

This same cry of combination and extortion raised by the newspapers has filled the ears of the public spasmodically for many years, and will probably continue to be raised, regardless of facts, as long as there is a protective tariff and free trade papers to carp at it. They have groaned under the burden of the price of paper while it has been going down from 25 cents to 2 cents a pound, and have charged restriction in production while the tonnage of newsprint paper has gone up from a few thousand tons a year to over 1,100,000 tons. Should there at any time be any ground for such complaints, assuredly the law of the land is sufficient to deal with the violators without recourse to so drastic a measure as removing protection from the whole paper industry, thus making the innocent suffer with the guilty.

Finally, it is claimed that the duty on paper is a "tax on intelligence." It is doubtful if any intelligent person on mature reflection would endorse this plea, even admitting for the sake of argument that the effect of protection is to raise the general plane of prices.

According to the census of 1905 only 18% of the total income of newspapers and periodicals was paid out for paper. Twenty per cent. increase in the price of paper would take only 3.6% additional from their income. Their receipts from advertisements were 56% of the total. Less than 7% increase in rates therefore would compensate for the extra bills for paper. It is no "tax upon intelligence" to increase the rate asked for advertising or decrease the space allotted, nor to reduce the size of newspapers by cutting out some of the sensational features. In most papers the size could be greatly reduced without crowding out any of the really valuable material which may have an educational or any other laudable influence. There is no sound excuse for publishers printing thousands of copies which are not sold but go to the junk heap, merely that they may in their strife for circulation, lay a basis for higher advertising rates, nor is there any justice in their seeking to shift the burden of this expense upon the paper manufacturers by demanding paper

so cheap that they can afford to waste a considerable percentage. But even if we could not have newspapers of the present size, style and price without driving out our paper industry; which alternative would be best for the country—a larger wage-fund or smaller papers? As Kipling says: "We must help the people to live before we help them to learn."

RECIPROCITY IN OUR FOREIGN TRADE RELATIONS

BY WILLIAM R. CORWINE,
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The sentiment for reciprocity in our foreign trade relations is almost unanimous among agriculturists, and there is a strong feeling for it among manufacturers. The basis for this is the belief that our tariff system has resulted either in the adoption of tariffs by nations to which we export, which have narrowed our opportunities for extending the sale of our surplus manufactured products in those countries, or in the imposition of severe sanitary regulations against our cattle and provisions, that have seriously affected our livestock and farming interests.

Reciprocity has been an accepted doctrine of the party in power, has been espoused by some of its most far-sighted statesmen, has been declared a policy in the platforms at several national conventions, and would, undoubtedly, if put into practical effect, give an impetus to our exports beyond anything that has yet been experienced. Its value is conceded by those nations that have incorporated it in their tariff systems.

The McKinley tariff act of 1900 included a provision for reciprocity, aimed principally at the republics south of us, and resulted in reciprocity treaties with several of them and with two nations in Europe. These treaties had been in operation only a short time when, through the policy of the Cleveland administration, they were rendered inoperative. In the Dingley tariff act, passed at a special session of Congress in 1897, the provisions for reciprocity were reinstated as a governmental policy on a much more comprehensive basis than in the McKinley act of 1900. Section 4 of the Dingley act provided:

That whenever the President of the United States, by and with the advice and consent of the Senate, with a view to secure reciprocal trade with foreign countries, shall, within the period of two years from and after the passage of this act, enter into commercial treaty or treaties with any other country or countries concerning the admission into any such country or countries of the goods, wares, and merchandise of the United States and

their use and disposition therein, deemed to be for the interest of the United States, and in such treaty or treaties, in consideration of the advantages accruing to the United States therefrom, shall provide for the reduction during a specified period, not exceeding five years, of the duties imposed by this act, to the extent of not more than 20 per centum thereof, upon such goods, wares, or merchandise as may be designated therein of the country or countries with which such treaty or treaties shall be made as in this section provided for; or shall provide for the transfer during such period from the dutiable list of this act to the free list thereof of such goods, wares, and merchandise, being the natural products of such foreign country or countries and not of the United States; or shall provide for the retention upon the free list of this act during a specified period, not exceeding five years, of such goods, wares and merchandise now included in said free list as may be designated therein; and when any such treaty shall have been duly ratified by the Senate and approved by Congress, and public proclamation made accordingly, . . . then and thereafter the duties which shall be collected by the United States upon any of the designated goods, wares, and merchandise from the foreign country with which such treaty has been made shall, during the period provided for, be the duties specified and provided for in such treaty, and none other.

President McKinley lost no time in putting this provision into practical effect. He appointed the Hon. John A. Kasson, of Iowa, as special commissioner, with plenipotentiary powers, and the latter negotiated several reciprocity treaties which were deemed by him to be favorable to the United States, and which, in the judgment of President McKinley, would widely extend the market for American products.

The most important of these treaties was with France. In this treaty France granted the United States concessions from her maximum to her minimum tariff for everything on her list except nineteen articles, while we, on the other hand, excluded 337 dutiable articles from the benefits of the concessions we granted to France. The average of the concessions which France made was about 48 per cent, including oils, and about 26 per cent, excluding oils. In some cases we granted France only 5 per cent reduction, in some 10, in some 15, and in a few 20 per cent, the latter being the extreme limit to which we could go under the Dingley act, while the average of all the concessions to France was only 6.8 per cent. As this was a treaty, however, under our constitution, it required ratification by a two-thirds vote of the Senate before it could become effective, and some of our manufacturers, thinking they

would be affected by the operations of the French treaty, protested successfully against its ratification. None of the other treaties were ratified, and all that had been accomplished under the Dingley act in negotiating them went for naught, while the hopes of the reciprocity advocates were temporarily blasted.

The limitation of time within which reciprocity treaties could be negotiated and ratified lapsed long ago, and there is no way of re-establishing these old treaties or making new ones without removing the time limit through action by Congress. There was a provision in the Dingley act, however, which, skilfully adopted by the present administration, has enabled us to ward off commercial warfare with Germany, and which has been used as a basis for several commercial agreements. Section 3 of that act provides that the President may make commercial agreements with the nations producing and exporting to the United States argols, or crude tartar, or wine lees, crude; brandies, or other spirits manufactured or distilled from grain or other materials; champagne, and all other sparkling wines; still wines, and vermouth; paintings and statuary; reducing the duties thereon in exchange for concessions which such nations may grant to the United States. As this is a very limited list of articles with which to trade, naturally the concessions which other nations are willing to grant are also limited. Beyond the prescribed commercial agreements, there is at present no reciprocity with foreign nations. Section 4 of the Dingley act could be re-enacted and the limitations of time therein imposed could be extended, but even then treaties negotiated thereunder would have to go before the Senate, where it would be as difficult now, as it was under President McKinley, to obtain the two-thirds vote necessary for ratification.

Our present tariff is rigid and is so inflexible that it seems useless to attempt to do anything more than has been done with it in the way of reciprocity. The only salvation for reciprocity, it seems to the writer, is, first, in a dual tariff with an authorization to the President to negotiate, execute, and to put into operation commercial agreements within the limitations which may be imposed upon him; and, second, to eliminate treaties from the program altogether. Our present tariff could serve as a maximum, and a minimum tariff schedule could be created by Congress. If the minimum were based on a 20 per cent reduction from the present tariff schedule, then we would still be within the reduction authorized by the Ding-

ley act of 1897; and between the maximum and the minimum, there would be a margin for bargaining with foreign nations. The President within this range might be authorized to make commercial agreements in the same way in which, under section 3 of the Dingley act, he is now allowed to make agreements embodying reductions in the limited number of articles mentioned in that section.

The single tariff, such as this country uses, has been discarded by most of the leading nations which have tariffs. Various forms of the dual, or maximum and minimum tariff, have been adopted by different nations, but the result sought in all of them is wider markets for their domestic products through reductions granted in reciprocal agreements or treaties; the difference between the higher and the lower tariff charges giving opportunity for mutual concessions.

Germany, under her new tariff, has executed reciprocity treaties or agreements with nearly every other country in Europe except those nations with which, in her general treaties, there exists the most-favored-nation clause, necessitating, therefore, no special or definite reciprocity arrangements. The higher of Germany's dual tariff rates would have become effective against the United States and would have been prohibitive against many of our exports theretofore sold in that country; but its operation was postponed through a limited agreement reached between the officials of the two nations. This agreement was ultimately made into a broader one for a specified period, which can and doubtless will be extended. The agreement, however, cannot be extended indefinitely, and the United States, so far as its commercial relations with Germany are concerned, must either make a reciprocity treaty and ratify it, or be prepared to enter upon a commercial war. The United States ought to have some provision for the establishment of reciprocal relations with other nations, else it will remain behind progressive countries in which more scientific methods have been adopted to extend their trade, and will also be liable to reprisals on the part of other countries with all the disagreeable results which follow.

Reciprocity advocates are experiencing a revival of hope based upon the declaration in the platform adopted at the Chicago convention favoring a maximum and minimum tariff. The statement with which the tariff plank opens, in which it is set forth unequiv-

ocally that a revision of the tariff shall be undertaken by a special session of Congress immediately following the inauguration of the next President, lays a foundation for the belief that the door for reciprocity will be opened in the immediate and not indefinite future. The outlook for reciprocity seems brighter now than at any time since the passage of the Dingley act in 1897. The declaration above quoted practically admits that the tariff needs revision and that the present system of a single inflexible schedule is obsolete. Naturally the fight will range over the maximum. Those who are in favor of reciprocity believe that in many cases a decrease from the present tariff schedules could be made without serious harm to American industries, and that the lower basis could be used for reciprocity purposes in the adoption of commercial agreements which would stimulate our export trade.

TARIFF REVISION AND PROTECTION FOR AMERICAN LABOR

BY JOHN R. COMMONS, A.M.,

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For nearly seventy years the effective arguments that have sustained the protective tariff have been the home market for farmers and a high standard of living for wage earners. The first depends on the second, for without a purchasing power of American labor greater than that of foreign labor the home market is not much better than the foreign market. The standard of living is the really enduring justification of the protective tariff. The tariff prevents the competition of foreign low-standard labor and draws a charmed circle within which American labor may gradually work out its own higher standards.

Now, it is an important fact that the principal leaders and advocates who framed the pauper labor argument two or three generations ago and who won its acceptance by the country, did not believe that the tariff alone would bring about a high standard of living. They looked upon the tariff merely as defensive. It needed to be supplemented by positive efforts, by voluntary organizations, by legislation, within this country. In fact, the tariff was to them simply the means by which these domestic efforts could be guaranteed a free field for successful experiment and adoption. Matthew Carey, from 1820 to 1840, did more than any other American to establish the tariff on a protective basis in the interests of labor. His indefatigable investigations furnished the arguments for petitions which manufacturers sent to Congress; for reports of Congressional committees; for speeches of Congressmen; and he, more than any one else, changed the tariff argument from protection to capital to protection to labor. Yet Matthew Carey, although an employer, was prominent in the labor agitation of the 'thirties and in his support of the labor organizations of that period. He aided and defended their strikes and brought down upon himself the blows of the free-trade organs, which rightly identified his protectionism with his trade-unionism.

Following him came Horace Greeley, who did for the people what Carey had done for the politicians. He converted them to protection by the home-market and the standard-of-living arguments. Yet there was no man of national fame in his day who did as much effective work for trade-unionism and even socialism as Horace Greeley. He presided over industrial congresses to which delegates came from the labor unions, the land reformers, from the Fourierite, and other socialistic societies. He opened the *Tribune* to these radicals and avowed himself for socialism at the time when he was also powerfully supporting protection. Indeed, he claimed that protection was necessary to enable socialism to work itself out to a successful issue free from the destructive competition of pauper labor.

When we come to the period after the war, Congressman Kelley, of Pennsylvania, so persistent and able a champion of protection as to be known to the nation as "pig-iron Kelley," often asserted, as I have been told by his daughter, Mrs. Florence Kelley, that the work of his generation must be to establish American industry, the work of the next generation would be to diffuse its benefits.

It is this hope of Congressman Kelley which I believe points toward the duty of the present day in the revision of the tariff. The socialism of Horace Greeley has long since been proved visionary. The trade-unionism of Carey and Greeley has been proved ineffective in the very industries where the tariff is most protective. In Greeley and Kelley's time the iron and steel industry seemed to be firmly established on a system of joint trade agreements of capital and labor, but, since the Homestead strike, the once powerful trade union of that industry has dwindled to a remnant. The hours of labor for men on shifts have been increased almost uniformly to twelve per day; night work and Sunday work have been extended wherever possible; twenty-four hours' consecutive work on alternate Sundays in order to change the night and day shifts has become necessary for many employees; while speeding up to the limit of endurance and cutting piece rates with increase of speed have been reduced to a science. The glass industry, too, is marked by the decline of unionism in certain branches, and even with unionism it is notorious for the exploitation of child labor. In the textile industry child and woman labor, long hours and interstate competition have defied the loudest agitation and have kept the wages

and conditions at a point actually inferior in places to those of its free-trade competitor, England. In other protected industries unionism is making a retreating fight, and I do not see how it is possible in those which have reached the stage of a trust for unionism to recover its ground. Labor cannot concentrate as capital does. It is among the industries and laborers not directly protected by the tariff, like the building trades, the railroads, the longshoremen of the lakes, that unionism has its principal strength. In all industries its influence is partial, and the great majority of the workers are outside its ranks. If their standards of living are to improve under the protecting shield of the tariff, the improvement must come through the aid of legislation.

We need scarcely stop to maintain the futility of state legislation in protecting labor in the tariff-protected industries. If the industry is competitive the more advanced states like Massachusetts cannot afford to handicap too greatly their own manufacturers. If the industry is "trustified," the trust can shut down its factories in an advanced state and throw its orders to its factories in a backward state like Pennsylvania. The tactics that defeat unionism are those that defeat state legislation.

As regards federal legislation there are serious questions of constitutionality and interference with state prerogatives. These have come to the front in the discussion that followed the Beveridge child labor bill and in the decision of the National Child Labor Committee to withdraw from that line of attack. It is doubtful whether such legislation can be brought in under the subterfuge of interstate commerce, or even under the "general welfare" clause. But more to the point is the fact that it is not based on the real consideration which the federal government offers to employers of labor as compensation for the expense which labor legislation imposes. This is the protective tariff. In this field questions of constitutionality have already been settled. Congress may impose a tariff for protection as well as revenue. It may select the industries and articles to be taxed and determine the rate of import duty. Congress is also supreme in the matter of internal revenue taxes. It may impose such taxes for regulation as well as revenue. It coupled the National Bank act with a prohibitive tax of 10 per cent on state bank notes. It has placed a heavy tax on colored oleomargarine in competition with dairy butter. In the field of customs

and internal revenue taxation Congress "is supreme in its action. No power of supervision or control is lodged in either of the other departments of the government."¹ With this unquestioned control of the taxing power, the tariff can be made to pass over a share of its benefits to the wage earners for whom it is intended. The method is merely a question of the technical drafting of the law and not any innovation on the principles of legislation nor infringement on constitutional boundaries.

A feasible method has been suggested by the new Commonwealth of Australia in the taxation of agricultural machinery. The so-called "excise tariff" of 1906 was adopted on the same day as the "customs tariff." The customs tariff act imposes a schedule of duties on imported goods, and the excise law (*i. e.*, internal revenue) imposes a schedule of one-half those rates on the same goods when manufactured at home. But it is provided that in certain cases the excise duty shall not apply. These are establishments where the "conditions as to the remuneration of labor" in the manufacture of the home product (*a*) "are declared by resolution by both Houses of Parliament to be fair and reasonable;" (*b*) are in accordance with an arbitration award or (*c*) a trade agreement of employers and trade union as provided in the conciliation and arbitration act of 1904; or (*d*) are declared fair and reasonable after a hearing by a judge of the supreme court of a state or his referee. The administrative details are of course unessential. The essential feature of the Australian arrangement is an internal revenue duty at a lower rate than the customs duty on the competing article, and the remission of that duty if the home manufacturer, on whom is the burden of proof, can show that his employees actually receive the benefits intended by the protective tariff.

I do not overlook the fact that a policy of this kind requires administrative machinery and scientific investigation. But this should be required under any kind of tariff revision. Surely the tariff should not be revised or reduced except on the basis of cost of production in this country and foreign countries. This should include, first of all, the comparative cost of labor. I believe all tariff revisionists agree to this, in order that the tariff may be retained ample enough to cover the higher costs of labor in this country. But there is a menace imminent even in such an investiga-

¹⁷ Wall, 488; 195 U. S. 57.

tion at the present time, because it assumes that revision will be made on the basis of the existing long hours, low wages, and child and woman labor of many protected industries. The actual cost of labor is lower than it would be if the hours, wages, and conditions were fair and reasonable. The people of this country will gladly support a tariff high enough to pay, not merely the existing wages, but better and even ideal wages. They do not ask that the tariff be reduced to the present labor cost. In some cases, like pig iron, that cost is probably less than it is in England, but in England the blast furnace workers are on the eight-hour day, while here their day is twelve hours, seven days a week. The people willingly protect labor, but they would like to see the tariff actually passed along to the wage earner. If, therefore, a tariff commission investigates the comparative cost of labor in this and competing countries, it should inquire whether the wages and hours are actually reasonable, and what would be the cost if they were made reasonable. It is on this ideal basis and not the actual basis that the tariff should be revised. If this is done, then the only serious difficulty of the plan, that of investigation, is already provided for. Such a tariff commission would necessarily be a permanent one, and naturally it would be a bureau of the Department of Commerce and Labor.

A permanent bureau of this kind would receive general instructions from Congress as to what, from the standpoint of a reasonable American standard of life, should be the condition of labor. This might provide for all workers at least fifty-two full days of rest each year. It might provide that all continuous operations should be divided into three shifts of eight hours instead of two shifts of twelve hours. It might provide the eight-hour day in non-continuous operations for women workers and possibly for men. It might set the minimum age of child labor at fourteen. Other provisions, such as minimum rate of pay, might be more general and be left to the commission under general instructions to ascertain what is reasonable under the conditions. If upon investigation and inspection the bureau or commission finds that a given manufacturer is granting to his employees these reasonable conditions, a certificate to that effect would be the warrant of the internal revenue commissioner to remit the internal revenue tax. All the machinery for imposing such a discriminating tax is already in existence in the administration of the oleomargarine tax which

imposes a tax of ten cents per pound on artificially colored oleomargarine and one-fourth of one cent per pound on uncolored oleomargarine. This tax and its administrative machinery have been sustained by the Supreme Court of the United States as being not in contravention of the Constitution.² The only additional machinery required is that which is already widely proposed in the form of a permanent tariff commission. Such a commission, I believe, is favored by the National Association of Manufacturers, and their bill only needs the addition of a clause giving the commission power to issue and revoke these certificates of character, in order to make it an effective instrument of labor protection. This would of course require a force of inspectors or agents, and considerable expense, but the expense would be met by the added revenue.

²*McCray v. U. S.*, 195 U. S. 27.

TARIFF RELATIONS WITH CUBA—ACTUAL AND DESIRABLE

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Cuba's political disturbances have in the past followed economic conditions that have caused discontent and encouraged revolution; such was the case in the ten-year insurrection and again in the insurrection of 1895, which preceded the Spanish-American War.

Previous to 1868 the tariff laws for Cuba were framed with the object of giving its trade to Spain, and for this purpose four different rates of duty were enforced, the first and lowest rate being upon Spanish merchandise in Spanish vessels, the second rate upon Spanish merchandise in foreign vessels, the third rate upon foreign merchandise in Spanish vessels, and the fourth rate upon foreign merchandise in foreign vessels. A duty was in force in Spain against Cuban sugar as a protection for the cane sugar produced in its southern provinces.

As long as the European countries were dependent upon the West Indies for the greater part of their sugar supply, and Cuba was producing with slave labor and had the buyers of Europe competing with those of the United States for her sugar, little attention was given to the fact that all legislation at Madrid was for the benefit of the mother country and that nothing was being done with a view to holding foreign markets for the island.

As years passed the continental countries of Europe all became producers of beet sugar and levied heavy duties against foreign imports, thus closing their markets to Cuba, and as soon as their production exceeded their consumption requirements, export bounties were paid, which enabled them to sell free-trade England at prices a good deal below cost of production. Cuba could then no longer compete there, and so became dependent upon the United States, where, fortunately for her, a countervailing duty, in addition to the regular tariff, had been enforced against those countries paying an export bounty.

With the gradual abolition of slavery in Cuba, 1866-1880, her

cost of production had greatly increased, while, by reason of the growth of the beet sugar industry, values had been cut in two. Spain through all these changes held blindly to her course of protecting her home trade, regardless of the interests of Cuba, and the inevitable result was the long and disastrous insurrection, 1868-1878, which brought financial ruin to so many of the sugar estates of the island.

During this period the United States, up to 1884, was almost as negligent of her foreign trade interests as was Spain of the interests of Cuba. When the change came from wooden to iron ships, and from sailing to steam vessels, England was prompt, not only to furnish tramp steamers for the transportation of Cuba's sugar crop to the United States, but with English capital she built and operated under the Spanish flag steamers which carried both Spanish and English merchandise to Cuba, taking advantage of the first and third columns of the Spanish tariff for Cuba, from which American merchandise was debarred, for the United States contented herself by imposing an additional duty of 10 per cent upon Cuban and Puerto Rican merchandise in Spanish vessels. This provision was applied by the United States as late as 1874 upon a cargo of molasses imported by a Spanish schooner. In 1884 these discriminating duties were abolished by agreement with Spain. But we had for many years the singular spectacle of English-built Spanish steamers, operated largely by English capital, running from English and Spanish ports and supplying Cuba with the many articles of need which should have gone from the United States, including flour from American wheat, which was shipped from New York to Santander under the British flag and thence to Havana as Spanish flour. These same Spanish steamers came in ballast to our southern ports to load cotton back to Europe.

All this was allowed for years in the name of protection to American industries and American shipping, and at a time when, through radical changes in the commerce of the world, we were every year taking a larger proportion of Cuban exports and paying through New York, by remittance of exchange, to Spain, England, Germany and France, in settlement for merchandise with which they were supplying Cuba.

In 1890 the McKinley tariff bill was passed and by what was known as the Aldrich amendment, power was conferred upon the

President of the United States to negotiate treaties of reciprocity which would admit sugar free of duty from such countries as would make concessions in their tariffs upon American merchandise. Under the power so conferred a treaty of reciprocity was negotiated with Spain, and afterwards similar treaties were made with the principal sugar-producing countries of the world, and the United States' tariff upon sugar was practically abolished; so our exports to Cuba rapidly increased, the cost of food supplies in Cuba was greatly reduced, and the island entered upon a period of prosperity such as it had not known for many years. This lasted until the year 1895, when the second insurrection occurred.

In 1894 the change from a Republican to a Democratic administration at Washington was followed by the passage of the Wilson tariff bill, which again placed a duty upon sugar, cancelled the reciprocity treaties and brought a return to the Spanish tariff rates in Cuba. Prices of sugar declined, while cost of living increased; confidence was destroyed through such conditions, together with a threatened insurrection, and as the estates finished their crops in the spring of 1895, all work on the plantations ceased, and the thousands of laborers suddenly thrown out of employment and unable to gain a livelihood took to the woods and joined the ranks of the insurgents. The destruction of property, the loss to commerce, and the reduction of Cuba's sugar crop from 1,040,000 to 230,000 tons, with the Spanish-American War which followed in 1898, are now matters of history. In 1897 the Dingley tariff bill was passed, by which ninety-six test sugar paid 1.68½ cents per pound, about double the rate under the Wilson bill.

Following our war with Spain and the taking over of her colonies came a radical change in our trade relations with Cuba through the reciprocity treaty, which took effect December 27, 1903. By this treaty Cuban sugar enters the United States at 20 per cent less duty than is charged upon other foreign sugar under the existing Dingley rates, or in round figures 1.35 cents per pound against 1.69 cents, the full rate on ninety-six test sugar, and Cuba concedes to the United States a reduction ranging from 20 to 40 per cent from her regular tariff rates charged to other countries.

When this treaty took effect the serious competition between European beet and Cuban sugars in the United States ceased. Under the Brussels agreement all government bounties, except those

of Russia, were abolished, and the continental countries took steps to restrict their production to their consumption. England could no longer supply her requirements below cost of production, and began drawing upon her own colonies and Java, and these sugars, paying a higher rate of duty in the United States than Cuban sugars paid, were diverted to England and to the eastern countries, as long as Cuba could supply our markets.

The first effect of the reciprocity treaty with Cuba was, as expected, to give that country the greater part of the differential duty and largely to divert her orders for supplies from Europe to the United States; but as an effect of changing the sugar tariffs of practically the entire commercial world, and the subsequent diversion of commerce to its more natural channels, combined with a poor agricultural season in Europe, crops were reduced and prices temporarily rose in 1905. This stimulated production in all cane-sugar countries, including Cuba, and large crops and lower prices in 1907 were the consequence.

Cuba, after the Spanish-American War, and under the stimulus of the reciprocity treaty, gradually recovered from the effects of the insurrection, but it was not until 1904 that her sugar crop again equaled that of 1895, preceding the second insurrection.

In tracing sugar legislation for the last forty years we get an illustration of how the tide of commerce has been changed and diverted from one channel to another by the raising and lowering of tariffs and by payments of bounties, at times bringing great temporary prosperity, and again sweeping away all barriers in seeking its natural outlet.

As has been stated, the first effect of the present reciprocity treaty was to give the greater part of the differential, amounting to roundly one-third of a cent per pound, to the Cuban producers, but as our domestic production and the Cuban crop increased, the New York duty-paid price dropped, and during the period, when the bulk of the Cuban crop is marketed (January to June), prices fell so far below the parity of Europe as to transfer the benefit of the differential to the consumers in the United States, so that in effect, while the reciprocity treaty in 1907 gave the United States markets for raw sugar to Cuba, as against other foreign competitors, by allowing her to undersell them, the island received but little pecuniary benefit from the differential accorded to her, and it still had to pay

1.35 cents per pound against the free sugar from our western beets, and the caned sugars of Louisiana, Puerto Rico and Hawaii, which sources were supplying nearly half of our annual requirements and forcing sales at the time of the heaviest receipts of Cuban sugars.

While United States control has, upon the whole, greatly benefited Cuba, and both General Wood and Governor Magoon are entitled to every credit for their administration of affairs, this relation has not been without its disadvantages. When the Cuban reciprocity treaty was under discussion at Washington every effort was made, by special interests, to reduce the proposed differential on sugar to the lowest possible figure, and fearing the competition for our domestic sugar through cheaper Cuban labor, our "Contract Labor Law," the "Chinese Exclusion Act," and our immigration law were all put in force in the island by General Wood, through directions from Washington, and afterwards made permanent by the joint resolution of Congress known as the Platt amendment. This action has effectually prevented Cuba from getting an adequate supply of labor to harvest her increasing crops, and the average wage of the agricultural laborer throughout the year is now quite as high as that paid in the United States. Figures from the pay-rolls of a well-known Cuban plantation show an increase in cost of labor between July, 1902, and July, 1906, of over 40 per cent, and an increase in the harvest season months of March, 1903 and 1907, of 33 per cent. With United States control came the labor agitator from the north and the formation of labor unions under his direction. This has led to a succession of strikes from trivial cause, many of which have had most disastrous consequences.

In providing by treaty for the exports of the United States, duties in Cuba were so adjusted as to give the trade to this country by differential duties ranging from 20 to 40 per cent. Under this provision our exports to Cuba have shown a most satisfactory growth, and from an insignificant amount under Spanish tariffs they reached the value of \$51,300,000 out of a total of \$104,400,000 imports for the twelve months ending December 31, nearly 50 per cent of the total. That the percentage was not greater was largely due to the high values prevailing in the United States, owing to control of prices of so many commodities by combinations, and to higher freight rates from the United States than from Europe, due to similar control of steamship lines.

Cuba has unquestionably benefited through United States control, first by securing a market for her sugars, when all others were closed to her, and, secondly, by the maintenance of order through the presence of United States troops during all but four years of the time which has elapsed since our war with Spain in 1898. Millions of foreign capital have been invested in Cuban sugar, tobacco and cattle industries, in the building of railroads, the establishment of banks, and other important enterprises. But both the consumers and producers in the United States have also benefited, the first through the lowering of the tariff rate on Cuban sugar, the second by an increased foreign market for their goods.

The political overturn in Cuba in August, 1906, with the threatened destruction of foreign property, forced the United States to again intervene by authority conferred by both governments under the Platt amendment to the Senate army appropriation bill of February 25, 1902, afterwards ratified by the Cuban Congress. This insurrection, which was fortunately checked before much destruction had been accomplished, stopped all agricultural work at a critical period, and destroyed confidence, so that very little planting was done for the crop of 1908, and these conditions followed by a severe drought during the next summer, reduced the sugar crop of 1908 to 925,000 tons against 1,420,000 tons the previous year.

In the early spring of the present year it was announced from Washington that the United States troops would be withdrawn not later than February 1, 1909; further credit was then refused to the planters, imports fell off, and general stagnation followed. These are the conditions prevailing to-day, for there are very few people connected with the business of the island, even among the Cubans themselves, who believe the country is yet prepared for an unrestricted independent government, free from United States control in some form.

The subject of tariff revision will soon be under discussion at Washington. The treaty of reciprocity with Cuba, which went into effect on December 27, 1903, was for five years from that date (to December 27, 1908), "and from year to year thereafter until the expiration of one year from the day when either contracting party shall give notice to terminate."

Already a movement is suggested on the part of our beet-sugar

producers to prevent any reduction in the sugar schedule and if possible to terminate this treaty. These interests claim that, given a high protection, domestic sugar should, within a few years, supply our consumption at a saving of some eighty million dollars, now sent abroad in payment for imported sugars. They ignored the fact that the greater part of these imports are paid for, not in cash, but in merchandise, the product of our factories, mines and farms, over fifty millions of which now goes to Cuba alone.

Another argument against reduced duties is that the United States cannot spare any of its revenue from sugar; a glance at the following figures will show the effect upon revenue, of the marked increase in domestic production:

CONSUMPTION, SUPPLY AND REVENUE FROM SUGAR—TEN YEARS.
(Sugar given in gross tons.)

YEAR.	Consumption.	Free sugar supply.	Cuban crop.	Other countries, bal. requirements.	Revenue to June 30.
1898.....	2,003,000	556,000	(b) 230,000	1,217,000	(a) \$29,504,000
1899.....	2,078,000	537,000	345,000	1,196,000	61,596,000
1900.....	2,220,000	478,000	308,000	1,434,000	57,741,000
1901.....	2,372,000	608,000	635,000	1,039,000	63,040,000
1902.....	2,566,000	876,000	850,000	840,000	53,033,000
1903.....	2,550,000	971,000	999,000	580,000	63,630,000
1904.....	2,767,000	881,000	1,040,000	846,000	58,152,000
1905.....	2,632,000	1,070,000	1,163,000	399,000	51,439,000
1906.....	2,864,000	1,177,000	1,179,000	508,000	52,645,000
1907.....	2,994,000	1,278,000	1,428,000	288,000	(c) 60,334,000

NOTES.—Sugar statistics are for calendar years. Revenue for fiscal years. Figures of consumption and crops from Willett & Gray's Reports:

(a) Revenue effected by change in tariff August, 1907. (b) Spanish-American War. (c) Temporary increase from heavy Cuban importations previous to June 30.

During the ten-year period above given the consumption of the United States increased 991,000 tons, the average annual increase being slightly under 5 per cent; during the same period the supply of free sugar increased 722,000 tons, the Cuban crop 1,198,000, while our requirements from all other countries have decreased 929,000 tons, and the revenue under the Dingley tariff has (if we except the year 1907) not increased since 1899, but has rather diminished in face of the steady increase of consumption.

Following these figures to a logical conclusion, and barring

partial crop failures, such as occurred in Cuba the present year, when the crop is reduced to 925,000, the present tariff rate would first shut out sugars from all foreign countries, other than those from Cuba, then check, and afterwards reduce, the Cuban production, for the reason that sugar paying a duty of 1.35 cents per pound cannot compete with that paying no duty.

The revenue from sugar under the present tariff has apparently reached and passed its maximum point, and any increase in tariff rates would soon decrease it by artificially stimulating the domestic production for which consumers are already paying some one hundred million dollars annually, but little more than half of which reaches the United States treasury.

Under the Treaty of Paris, 1898, and the provision of the Platt amendment, 1902, the United States first made themselves responsible for, and afterwards assumed the right to protect life and property in Cuba. In case of further trouble following the contemplated withdrawal of United States troops, either we must return promptly or so far abandon the Monroe Doctrine as to permit the landing of troops by the European governments for the protection of their citizens, whose interests there are large and steadily increasing.

While the present differential duty of .34 cents per pound has proved sufficient to protect Cuba in the United States markets against the lower cost sugars of Europe and Java, she cannot long compete with our domestic sugars against the duty she is now paying of 1.35 cents per pound. As long as the island is prosperous and under some form of United States control, a Republican government may be maintained; but should her great sugar industry be made unprofitable, either by cancellation of the treaty or by long continuance of the present high duty against her sugar, revolution, fed by her unemployed, is sure to result in the future, as it has under similar circumstances in the past. Revolution would be followed by a third and final occupation by the United States, by annexation, and finally by abolition of all duties. Whether such a condition is desirable in the near future, either for the United States or for Cuba, is open to grave doubt, but no government in any form, other than one of military force, can be maintained unless the people are given a "square deal," and allowed to benefit through their own industry.

To put the sugar industry of Cuba upon a sound basis does not require the removal of duties here, or such drastic measures as would prevent a fair and just return to our beet sugar and other producers upon their invested capital. But these interests are no longer dependent upon the present high Dingley rates—a liberal reduction can now be made in our sugar schedules; and by continuing the present differential of 34 cents per one hundred pounds, our large and increasing export trade to the island can be held, through maintaining its leading industry in a sound and healthy condition.

Will our domestic producers allow such reduction, or will they, by pursuing the former policy of Spain, risk all, and bring about the very conditions of free trade which they are so anxious to avoid?

COMMERCIAL RELATIONS OF THE UNITED STATES WITH CANADA

BY JOHN BALL OSBORNE,

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Nature is a most powerful ally in the development of the commercial relations between the United States and the Dominion of Canada. That great northland, with an area exceeding that of this country and with a population of six million energetic, ambitious souls, has enormous natural resources and is rightly spoken of by its statesmen and economists as a land of "almost infinite possibilities." With Canada the United States has many mutual interests and there is a marked homogeneity in the people of the two countries. A glance at the map must inevitably suggest that political arrangements frequently fail to follow rational commercial lines. A straight line connecting the northern boundaries of Minnesota and Maine will cut from the Dominion the richest and most populous portions of Ontario and Quebec, and, as a matter of fact, the commercial interests of the provinces along the American border are quite as intimately connected with those of the adjoining states as with each other. Thus, the maritime provinces are geographically related to New England; Ontario to New York, Pennsylvania, Ohio, and Michigan; Manitoba and the Northwest territories to Minnesota, North Dakota, and Montana; and British Columbia to our Pacific Coast states.

Under these favoring national conditions it might be expected that there would be the freest commercial intercourse between the two countries, the principal limitation being the law of supply and demand as regards American imports of Canadian natural products and the consuming ability of the Canadian people as regards the diversified exports of the United States. In a measure this is true. The commercial movement between the two countries is indeed extensive, as the statistics given below show; but it is not as intimate and important as it would be were it not for the operation of two great factors—colonial sentiment and tariff barriers. Sentiment alone figures very little in the determination of international

commerce; but in this case it was the colonial tie that inspired and created the preferential tariff system of Canada, and this is a factor that cannot be ignored.

In recent years the Dominion of Canada has come into the ranks of the commercial countries of the world. Its total trade in 1883 was \$230,000,000; in 1893, it had risen to \$248,000,000; in 1903, to \$467,000,000, and in 1906 it exceeded \$550,000,000.

The trade between the United States and Canada in each year since 1903 was as follows:

FISCAL YEAR (UNITED STATES).	Imports into the United States from Canada.	Exports to Canada from the United States.
1903.....	\$54,781,418	\$123,266,788
1904.....	51,552,791	131,234,985
1905.....	62,469,632	140,529,581
1906.....	68,237,653	156,736,685
1907.....	73,334,615	183,206,067

The importance of our trade with Canada is shown by the fact that in the fiscal year 1907 the value of the exports of American products to Canada was exceeded only by our exports to two countries, namely, the United Kingdom and Germany. Similarly in the same year our imports from Canada were exceeded in value by the imports from only five countries, namely, the United Kingdom, Germany, France, Cuba, and Brazil.

As might be expected, nearly everything that Canada sends to this country falls within the description of raw materials for manufactures or foodstuffs. The principal items making up our imports from Canada in 1907 were logs, lumber, and wood pulp; copper and nickel ores; hides, skins, and furs; fish and animals; and bituminous coal. These in fact, have been the classes of articles that have been most largely imported ever since the days of the reciprocity treaty.

As regards American exports to Canada, while there are many heavy items coming in the category of raw materials, such as coal, both anthracite and bituminous; raw cotton, cereals, leaf tobacco, fruits, etc., the bulk of the exportation represents manufactured articles, particularly iron and steel goods, agricultural implements, chemicals, railway material, carriages, paper, etc.

The interchange of the same articles of merchandise has always

been a noteworthy phenomenon in our trade with Canada. Thus, one article may be exclusively an import in one state along the border and an export in another, or its status may be determined by the condition of the crops. The principal articles which figure both as imports and exports are the following: animals, breadstuffs, copper, fish, fruits, hides and skins, and vegetables. There is considerable border traffic in vegetables in both directions, particularly in the northeast. The identity of some of these elements in the trade has more than once been advanced as an argument against reciprocity. Thus, when the Senate was considering, in 1865, the termination of the Marcy-Elgin treaty, Senator Conness, of California, exclaimed:

How you can make a treaty reciprocal between two countries lying contiguous to each other which have the same products, the same class of industries, I cannot exactly see. Subject the arrangement of that reciprocity to a treaty, or the mode furnished by a treaty, and you have simply an arrangement in which each party endeavors to cheat the other in making the agreement to be arrived at.

The following table, from official Canadian statistics,¹ gives the total exports from Canada in specified years from 1868 to 1906, and the shares going to the United Kingdom and the United States respectively:

YEARS.	Total exports.	EXPORTS TO UNITED KINGDOM.		EXPORTS TO UNITED STATES.	
		Total value.	Per cent.	Total value.	Per cent.
1868	\$57,568,000	\$21,329,000	37.0	\$27,534,000	47.9
1870	73,573,000	24,951,000	33.9	32,985,000	44.8
1873	89,790,000	38,744,000	43.6	42,073,000	46.9
1875	77,887,000	40,033,000	51.4	29,912,000	38.4
1880	87,911,000	45,846,000	52.1	33,350,000	37.9
1885	89,238,000	41,878,000	46.9	39,753,000	44.5
1890	96,749,000	48,354,000	49.9	40,523,000	41.9
1895	113,639,000	61,857,000	54.4	41,298,000	36.3
1900	191,895,000	107,736,000	56.1	68,619,000	35.7
1901	196,488,000	105,329,000	53.6	72,382,000	38.8
1902	211,640,000	117,320,000	55.4	71,198,000	33.6
1903	225,850,000	131,202,000	58.1	71,784,000	31.8
1904	213,521,000	117,591,000	55.1	72,773,000	34.1
1905	203,316,000	101,959,000	50.2	77,404,000	38.1
1906	256,587,000	133,095,000	51.9	97,807,000	38.1

¹ From Tables of the Trade and Navigation of the Dominion of Canada.

It appears from the foregoing table that the mother country is the best customer of Canada and the United States the next best, the percentages in 1906 being respectively fifty-two and thirty-eight. The table indicates, too, that not since the early seventies has the United States been as extensive a purchaser of Canadian goods as the United Kingdom. This, perhaps, will be a surprise to many persons who have supposed that this country constitutes Canada's largest market.

It is more interesting and significant, however, to consider the imports for consumption into Canada for the same years as above given, with special reference to the United States and the United Kingdom. These figures are given in the following table from Canadian sources:²

YEARS.	Total imports for consumption.	IMPORTS FOR CONSUMPTION FROM UNITED KINGDOM.		IMPORTS FOR CONSUMPTION FROM UNITED STATES.	
		Total value.	Per cent.	Total value.	Per cent.
1868.....	\$71,985,000	\$36,664,000	50.9	\$26,315,000	36.6
1870.....	71,238,000	38,595,000	54.2	24,728,000	34.7
1873.....	127,515,000	68,523,000	53.7	47,736,000	37.4
1875.....	119,619,000	60,347,000	50.5	50,806,000	42.5
1880.....	71,782,000	34,401,000	48.0	29,347,000	40.9
1885.....	102,710,000	41,407,000	40.3	47,151,000	45.9
1890.....	112,766,000	43,390,000	38.5	52,292,000	46.4
1895.....	105,253,000	31,132,000	29.6	54,635,000	51.9
1897.....	111,294,000	29,412,000	26.1	61,649,000	55.9
1900.....	180,804,000	44,790,000	24.7	109,844,000	60.7
1901.....	181,238,000	43,018,000	23.7	110,485,000	60.9
1902.....	202,792,000	49,206,000	24.3	120,815,000	59.6
1903.....	233,791,000	58,897,000	25.2	137,605,000	58.9
1904.....	251,464,000	61,778,000	24.6	150,827,000	60.1
1905.....	261,926,000	60,343,000	23.0	162,739,000	62.1
1906.....	290,361,000	69,195,000	23.8	175,862,000	60.6

Here we see that the conditions are precisely reversed in comparison with the statistics of exports from Canada, for the share of the imports from the United Kingdom has steadily declined from 50.9 per cent of the total in 1868 to 23.8 per cent in 1906, while the share of the imports from the United States has increased from 36.6 per cent to 60.6 per cent. These results are remarkable when it is remembered that the relative loss of the mother country and corresponding gain of the United States have been apparently in

²From Tables of the Trade and Navigation of the Dominion of Canada.

defiance of the preferential tariff treatment enjoyed since 1897, in varying degrees, by numerous classes of British products at the expense of the like products of American origin. The inference drawn by many persons from this state of affairs is that the pro-British tariff of Canada has been ineffectual. I am not prepared to accept this conclusion, but am strongly of the belief that the preferentials in favor of the goods of the mother country have actually exerted, especially since 1900, an important, although indeterminate, influence. In other words, I am of opinion that since British manufactures enjoyed a rebate of one-third the regular duties, the Canadian tariff has exerted a restrictive effect upon the normal growth of American export trade to that country, so that our share might have been in 1906 perhaps 75 per cent, instead of 61 per cent, if the trade of the United States had not suffered this differential treatment in competition with British industries.

But be this as it may, the table shows that Canada makes the bulk of her foreign purchases in the American market, notwithstanding the preferentials and the colonial or imperial sentiment. Commenting upon this state of affairs, the editor of the London *Financial Times* recently remarked that what has evidently been accomplished by the preferential tariff is a checking of the decline in British exports to Canada which set in between the years 1892 and 1895, and in this respect, he thought, it has performed a service to British manufacturers. While this is undoubtedly true, some share of the credit for arresting the decline mentioned is due to British exporters who have awakened in recent years to the necessity of energetic efforts in order to maintain their hold on the Canadian market. I quote the following extract from the editorial referred to:

The geographical position of Canada, it is obvious, is a severe handicap to British manufacturers and a corresponding advantage to United States merchants. There is also what, perhaps, is too often overlooked here—the immense advantage given to the states by the approximation of social and economic conditions in the two countries. To so great an extent is this the fact that the manufacturers of the states can regard the Dominion as being in many of its requirements merely an extension of the home market and as not needing specialized lines or methods of production such as our manufacturers would in many cases have to undertake before they could hope to compete on equal terms. The big point in our own favor consists in the fact that we are Canada's principal customer, with the result that there is always

a large tonnage moving eastward and providing comparatively low freights for return business. Then we have the preferential tariff and that wider preference in good will which arises from our political connection and our ties of blood.

While the preferential tariff is a most important factor in building up trade between the Dominion and the United Kingdom, it is not difficult to account for the steady increase of imports from the United States. All our consular officers stationed in Canada agree that American goods are held in high favor as respects quality. In a recent report Consul Van Sant, of Kingston, says that in the long run, notwithstanding the keenest competition and sentiment, the natural advantages in geographical position and common commercial interests and tastes seem to count favorably, and the importation of manufactures from the United States continues to lead. In order to hold this position, he cautions the American exporter to watch the situation and to meet every new wave of industrial competition by extending fair trade inducements to Canadian merchants who buy abroad. Consul Van Sant also makes the gratifying announcement that there are no complaints against American packing methods in his district, and that the usually admitted superiority of American goods and their quick transit across the border, along with the low average of breakage and damage, have aided largely in bringing about the leading trade position enjoyed by the United States. It would seem that these considerations explain the apparent failure of the preferential tariff to accomplish what its framers claimed for it.

In several important lines of manufactured goods the United States enjoys in the Canadian market an apparently securely entrenched position notwithstanding differential tariff treatment in competition with the industries of the mother country. It may be of interest to note a few of these industries in which the United States is strongest and the United Kingdom weakest. Such are agricultural implements and machines, tools and hand or machine implements, portable machines and parts, locomotives, railway cars, copper manufactures, electrical apparatus, and iron and steel manufactures. In some of these classes of Canadian imports the share of the United States is as high as 90 or 95 per cent, thus giving a virtual monopoly. This position is likely to be maintained indefinitely, excepting in so far as modified by the growth of domestic

manufactures, including the Canadianized American plants, to which I shall presently refer.

On the other hand, the classes of manufactures in which our British rivals have been aided materially by the preferentials include the miscellaneous metal trades, hardware, cutlery, jewelry, etc.; textiles; waterproof clothing; leather goods; steam engines and boilers; some kinds of iron and steel, particularly pig iron; and earthenware. In all these lines the gain of Great Britain seems to have been at the expense of the United States. Still other British industries that have been benefited by the preference are hats, caps, and bonnets; drugs, dyes, and chemicals; china and porcelain; and cement, although in these classes the trade of the United States has kept pace with the increase in the Canadian demand and has generally increased more rapidly. At any rate, the classes of manufactured goods that I have enumerated in this paragraph are those in respect of which we have good cause to apprehend increasingly keen competition from the mother country as a direct result of the heavy tariff preference.

The following interesting tables, showing the general course of Canadian trade from 1884 to 1905, were compiled by the Canadian Tariff Commission in 1907. While some of the percentages are slightly different from those I have given above, the discrepancies are due simply to taking total imports in one case and total imports of merchandise for consumption in the other:

TABLE A.—IMPORTS INTO CANADA: PERCENTAGE DERIVED FROM DIFFERENT SOURCES.

<i>Origin.</i>	1884.	1894.	1904.	1905.
United Kingdom	40.1	34.2	24.6	23.6
The rest of the empire.....	3.1	2.5	4.4	5.1
	<hr/>	<hr/>	<hr/>	<hr/>
Total imports from British Empire...	43.2	36.7	29.0	28.7
	<hr/>	<hr/>	<hr/>	<hr/>
United States	46.7	46.9	60.0	60.7
Other foreign countries.....	10.1	16.4	11.0	10.6
	<hr/>	<hr/>	<hr/>	<hr/>
Total from foreign countries.....	56.8	63.3	71.0	71.3
	<hr/>	<hr/>	<hr/>	<hr/>

According to the above table the imports into Canada from the mother country fell from 40.1 per cent in 1884 to 23.6 per cent in (336)

1905, while those from the United States rose from 46.7 per cent to 60.7 per cent in the same period.

TABLE B.—EXPORTS FROM CANADA: PERCENTAGE TO VARIOUS DESTINATIONS.

<i>Destination.</i>	<i>1884.</i>	<i>1894.</i>	<i>1904.</i>	<i>1905.</i>
United Kingdom	46.9	58.5	55.4	50.6
The rest of the empire.....	4.8	5.0	5.7	5.9
Total exports to British Empire.....	<u>51.7</u>	<u>63.5</u>	<u>61.1</u>	<u>56.5</u>
United States	43.0	31.6	33.7	37.4
Other foreign countries.....	5.3	4.9	5.2	6.1
Total to foreign countries.....	<u>48.3</u>	<u>36.5</u>	<u>38.9</u>	<u>43.5</u>

It appears from the foregoing table that the exports from Canada to the mother country rose from 46.9 per cent in 1884 to 50.6 per cent in 1905, while, in the same period, those to the United States declined from 43 per cent to 37.4 per cent. It should be borne in mind, of course, that this is simply a statement of respective shares expressed in percentages, for Canadian exports to the United States have, as we have seen, increased to a formidable figure. What the table does show, however, is that the mother country was buying more, relatively, and the United States less, relatively, in 1905 than in 1884 in the Canadian market. On the principle of natural reciprocity in trade—that a nation should buy where it would sell—the percentages of the Tariff Commission seem to me to point a certain moral and to be pregnant with meaning, the trend of the second table (B) foreshadowing a different story for the first table (A), when they shall be recast a few years hence.

The statistics that I have presented show, I think conclusively, that the pro-British tariff has failed to accomplish the divergence in international trade which its founders and advocates anticipated; but it would be unwise to minimize its importance, for the time may come when tariff differentials against American goods of 33 $\frac{1}{3}$ per cent, or even 25 per cent, will suffice to ruin our export trade to the Dominion. There is no partisanship in the proposition that the continuance of our industrial prosperity is essential to the continuance and progress of our foreign trade. If the present halcyon period were to be succeeded by one of depression and stagnation,

all experience indicates that foreign tariff restrictions against American products that are now, on the impulse of the waves of prosperity, overridden without much difficulty, would become stone-wall obstacles. It therefore should be a matter of general concern to understand precisely the character of the Canadian tariff system.

Prior to 1897 Canada, like the majority of countries and colonies, employed the single tariff system. In that year the Parliament of the Dominion adopted a double tariff, consisting of the regular tariff and the preferential tariff in favor of the mother country and reciprocating colonies. During the first year the reduction allowed as preference was only $12\frac{1}{2}$ per cent; but by the terms of the original law (May 13, 1897) this was increased in 1898 to 25 per cent. It remained at that figure until July 1, 1900, when, by an order previously made in council, it was increased to $33\frac{1}{3}$ per cent, and this continued to be the uniform reduction in duties on imports from the United Kingdom and reciprocating colonies (mostly in the West Indies) until the triple tariff of 1907 went into effect. While the Canadian tariff during the period 1897 to 1907 was virtually a double tariff, like the maximum and minimum tariff of France, it was a single tariff in form, with a single schedule of duties applicable to all foreign countries alike, the provision for preferential treatment within the British Empire being a separate feature of the law.

The apparent ineffectiveness of the British preferentials was the principal reason for the revision of the tariff in 1907 on an entirely new plan, which bids fair to have far-reaching results. In preparation for the revision a tariff commission collected a mass of evidence in 1906 in the different industrial centers, both in the Dominion and in England, as regards the effect of the then existing uniform preference of $33\frac{1}{3}$ per cent and the needs and wishes of the business interests concerned. As adopted by the Canadian Parliament, the new tariff consists of three schedules of duties on the same articles published in parallel columns, thus making the system a unique triple tariff. These columns are headed respectively "British Preferential Tariff," "Intermediate Tariff," and "General Tariff."

The rates of the "General Tariff," applicable to the United States, are not radically different from those of the old tariff. The average ad valorem rate of duty collected in 1906 on total dutiable imports from the United States was 24.8 per cent, and on total

free and dutiable imports 13.1 per cent, thus showing a moderate tariff of the protective class.

Considerable change was made in the British preferential tariff. Instead of the former flat rebate of $33\frac{1}{3}$ per cent, fixed duties, mostly specific, were provided, some representing a higher preference than one-third and others a less. The preference was increased, speaking generally, on iron and steel and their manufactures, glass and glassware, earthenware and china, silk manufactures, and paper manufactures. It was made lower on cotton manufactures, woolen goods; flax, hemp, and jute manufactures; drugs, dyes, and chemicals, and leather and its manufactures. It was estimated by the tariff commission that of the total dutiable imports (measured by valuation) from the mother country the preference was increased on 28 per cent and diminished on 72 per cent. It is also to be remembered that the preference will be materially diminished to the extent that the intermediate tariff shall be put into effect. It will presently be affected by the new Franco-Canadian reciprocity treaty.

The most interesting feature of the new law to the United States, however, is the intermediate tariff, standing in a column between the British preferentials and the general tariff, with rates for the most part from $2\frac{1}{2}$ to 5 per cent lower than the general rates. This tariff is to be brought into operation by Canadian order in council after negotiation with foreign countries which "give Canada favorable conditions," or with British colonies other than the reciprocating colonies which enjoy the preferentials.

Mr. Fielding, in outlining the intermediate tariff, made the following significant statement in Parliament:

All we do then by adopting this intermediate tariff is to hold it up to countries abroad and say: This is something which you may obtain if you desire by entering into negotiations with Canada; you may obtain the whole tariff for equal compensation or you may obtain a part of that tariff for compensation. You may obtain it from day to day by reciprocal legislation, or you may obtain it by a treaty brought about through the diplomatic channels. We do not therefore bring this middle tariff into operation at once, but we put it before the world as a statement of the terms and conditions upon which we are willing to negotiate with other countries, and in order that we may induce them to give us better terms and take from us a larger share of the products of Canada.

It has been the general impression that the intermediate tariff is an invitation extended mainly to the United States. France, how-

ever, has been the first country to profit by it. A reciprocity convention between Canada and France was signed at Paris on September 19, 1907, whereby Canada granted to France the benefits of the intermediate tariff on a long list of French products, including practically everything in which that country is interested, and in return, France conceded to Canada her minimum tariff duties on a large number of Canadian products. This treaty has been approved by the Canadian Parliament and is now awaiting ratification by the French Senate, having been already approved by the French Chamber of Deputies. When it goes into effect in Canada it is obvious that it will have a double influence, namely, it will impair *pro tanto* the value of the British preference on competitive goods and it will increase the differentiation against the United States until the latter shall obtain the same treatment.

Inasmuch as the United States cannot hope to obtain the benefit of the preferential tariff, which, of course, is restricted to the mother country and reciprocating colonies, all our interest centers in the possibilities of the intermediate tariff. By the provisions of the reciprocity convention above mentioned, France secures the rates of the intermediate tariff on no less than ninety-seven articles or classes of articles, almost exclusively manufactured goods. Here are some of them: canned meats; florist stock and trees; canned corn; canned fruit; all kinds of nuts; canned fish; confectionery; photographs, paintings and drawings; toilet preparations; printing and writing ink; tableware of china, porcelain, white granite or ironstone; cement; window glass; glassware in general; manufactures of lead, copper, brass, aluminum, gold, and silver, not otherwise provided for; clocks and watches and their movements; locomotives and motor cars; automobiles and motor vehicles; manufactures of iron, steel, or wood, n. o. p.; house and office furniture; dress goods, cotton threads; carpets and rugs of cocoa, straw, hemp, or jute; braids, fringes; handkerchiefs and corsets; velveteens and plush fabrics; musical instruments and talking machines; leathers; boots and shoes; trunks and valises; toys; gloves and brushes.

The treaty also contains a schedule of twelve classes of French goods enjoying the benefit of special duties. These include wines, books, drugs and medicines, laces and embroideries, silks, ribbons, and velvets.

But there are many other articles in the intermediate tariff not

provided for in the French treaty and yet possessing no little importance to our own trade, for the tariff consists of 711 numbers, including goods that are free in all three columns. For example, the item of typewriters does not occur in the French treaty, and yet the United States is interested therein. The duties are: preferential, $17\frac{1}{2}$ per cent ad valorem; intermediate, $22\frac{1}{2}$ per cent, and general, 25 per cent. It is the same with cornmeal; printing presses; agricultural machinery; stoves; wagons and carriages; bicycles and tricycles; and many other products of American ingenuity and skill. France has not obtained the reduced duties upon them because she is not concerned in their exportation to Canada; but the case is different when the trade relations between the United States and Canada are considered.

In this connection we are hardly concerned, except incidentally, with the equally serious question to the United States presented by the increased differentiation against American exports in the French market as a result of the Franco-Canadian treaty. Speaking of the concession by France to Canada of the minimum duties on agricultural machinery, Consul General Mason, of Paris, says in a recent report:

The difference between maximum and minimum French duties on agricultural machinery figures out, as has been stated in a previous report, to \$3.86 on a mower, \$4.82 on a reaper, \$8.20 on a binder, and \$1.93 on a hay-rake. This disparity of import duties is sufficient, in addition to the high cost of steel, wood, and labor in the United States, to put the importers in France of American harvesting machinery at a disadvantage that will imperil their present splendid trade as soon as Germany, Great Britain, and henceforth Canada, can develop their production so as to cover the French market. Already the Canadian manufacturers are preparing to improve the larger opportunity that will be offered here, and it is reported that a harvesting machinery plant in Canada, which belongs to the American syndicate, will be enlarged and worked to its highest capacity for the export trade to France. The pending situation, if indefinitely prolonged, may result in transferring largely to Canadian territory this and several other industries which have been built up and have their native home in the United States.

To this testimony it is pertinent to add that of Consul General Bradley, of Montreal, who reports that a special commissioner, sent over by the British Board of Trade to find means of extending the trade with England, states that 122 of the leading manufacturing firms of the United States have operating branches in Canada, and declares that in Montreal alone \$25,000,000 to \$75,000,000 American

capital is invested. The complicating effect upon our trade relations of an "American invasion" of this kind needs no comment.

When discussing the question of our commercial relations with Canada, one instinctively thinks of reciprocal tariff arrangements. In carrying out the policy of commercial reciprocity the object of the United States has always been to protect its export interests in foreign markets, granting no more in return for the concessions thus secured than is consistent with the principle of adequate protection of domestic industries. No more appropriate field for the inauguration of this policy could be suggested than the Dominion of Canada, for reasons which I mentioned at the beginning of this article. These considerations, indeed, actuated the two governments in concluding the Marcy-Elgin treaty of 1854, which went into effect in 1855 and remained operative until March 17, 1866, when it was terminated in consequence of notice on the part of the United States in accordance with congressional direction. That treaty established a certain measure of free trade between the contracting parties, inasmuch as it exempted from duties some twenty-eight classes of natural products when imported into either country from the other. The action of Congress in directing the termination of the treaty was quite generally approved by the people of the United States, although the mercantile interests engaged in the Canadian trade were, as a rule, in favor of its extension or at least renewal in revised form.

Repeated efforts to secure another reciprocity arrangement for the regulation of our commercial relations with Canada have been made, without result, since 1866, notably in 1869, 1874, 1892, and 1898-99. The overtures came, I believe in each instance, from Canada. The Joint High Commission of 1898-99 had made substantial progress toward an agreement on the subject of commercial reciprocity, which was only one of a dozen topics under consideration, when the sessions came to an abrupt termination as the result of a disagreement respecting the settlement of the Alaskan boundary dispute. There is every reason to believe that a satisfactory treaty of reciprocity could have been arranged had the Canadian commissioners been willing to conclude independently of the Alaskan boundary. The responsibility, therefore, for the absence of a reciprocity arrangement between the two countries does not, in my opinion, rest with the United States.

NOTES ON OUR TARIFF RELATIONS WITH MEXICO

BY HON. FRANCIS B. LOOMIS,
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It may not be wholly unprofitable from the viewpoint of the practical legislator or of the practical man of affairs to attempt to consider in a special or individual way our tariff relations with Mexico at the present moment. It may also properly be observed in this connection that until we set our own house in order and are able to secure an adequate revision of our own tariff laws we cannot, under existing conditions of uncertainty with respect to such proposed modifications of our revenue system, do more than suggest for discussion certain articles which may be considered as a basis for some sort of reciprocal tariff arrangement between the government of the United States and that of Mexico.

Owing to the proximity of Mexico and to the very considerable commercial transactions between the two countries, and owing to the large number of embarrassing and irritating questions that arise by reason of our large and frequent intercourse with our neighbor, it may be suggested that it would be the part of wisdom for the administration at Washington to make persistent effort first with our own Congress, then with the Mexican government for the purpose of ultimately bringing about an agreement looking to the establishment of a rate of duty on articles imported from Europe which shall not greatly vary in the two countries either as to the amount to be collected on a given article or as to the manner of collection.

If something in the nature of a uniform rate of duty on articles of similar character and value imported from Europe could be agreed upon by Canada, the United States and Mexico, a great forward step in the solution of our tariff problem and difficulties would have been taken and we would be in a position to assert with confidence that we had advanced prodigiously toward the establishment of reciprocal tariff relations with our two neighbors, which relations might easily come to be a prelude to an agreement on the part of the three governments, of the United States, Canada and

Mexico, for the adoption of a system of what would virtually be continental free trade in North America. This is, of course, a dream of the future, but it is a dream that is not impossible of realization and is, therefore, a fit subject for discussion.

There are a number of articles which, it occurs to one, could well be made a subject of a mutually advantageous reciprocal agreement with Mexico, if we had ample legal authority to enable the President to negotiate such an instrument. If the executive had a free hand and was not limited for "trading purposes" to a few articles specified in the Dingley law, much solid good could be accomplished, by way of increasing our opportunities for foreign trade and improving our tariff relations with foreign countries.

In the first place we might, with profit both to Mexico and to the United States, come to a satisfactory understanding respecting the rate of duty to be levied on laces, jewelry and diamonds imported into the respective countries. In this country the duty is high on these articles; in Mexico it is so low as to furnish a perpetual incentive to organized smuggling operations at many points on our frontier. We are compelled to employ a large number of revenue officials and special agents in our attempt to suppress this illegal traffic; and our efforts are by no means always successful. This is a condition which ought not to exist. Mexico needs income from customs duties for revenue purposes just as we do. It is not in the case of the jewelry, laces and diamonds a question of the protection of home industries, but rather of collecting some of the revenue necessary to the support of the government by a tax on luxuries which are not at all essential to the comfort and well being of the greater mass of people. There seems to be no sound or sufficient reason why the two countries could not collect substantially the same duties on articles of luxury imported from Europe. I cite this case merely to illustrate the achievement along this line of work which would be possible if Congress would authorize proper legislation.

There are several articles manufactured in the United States on which Mexico levies high duties which might very well be admitted free, or almost free, of duty, and the admission of which in this way would work no ill to any real industry in Mexico. Mexico might enter into negotiations concerning such articles which would result not in any loss to her revenues, but which, on the other hand, might bring to her some concessions of value from us. The paper

industry is a case in point. Mexico manufactures an insignificant quantity of paper. The protective tariff on papers and articles made from paper is so high as to exclude many of our products in which paper in various forms largely enters. This paper schedule ought to be made the subject of serious discussion between the representatives of the two countries, and extensive modifications ought to be worked out which would be of advantage to manufacturers in the United States and to the consumer in Mexico and to the receipts of that country from customs revenues.

The fuel supply of Mexico is a matter of great concern, yet the Mexican tariff on coal and some other fuels is so high that certain of our fuel products are excluded, notwithstanding the fact that Mexican oil is consumed locally only in very limited measure.

One of the chief and distinctive of our industries is the making of furniture. Mexico imposes, what seems to many of our manufacturers, excessively high duty on American furniture. The consequence is that the American styles of furniture are imitated, and very inferior articles, I am told, are put on the market and sold under the guise of furniture of American manufacture. There seems to be no valid reason, except that our tariff law does not permit it, why the market for American furniture of a better class could not be very greatly augmented by means of a proper tariff bargain between the two countries.

I think it may be stated almost in an authoritative way that the Mexican Government would be glad to make fair and even liberal concessions on certain of the articles the export of which to our neighbor we wish to increase, in return for a modification of our tariff rates on lumber and cattle.

Mexico has a large quantity of lumber which it is desired to send into this country. If there be one widely used necessity which the people of this country are paying a very high price for it is lumber. If Mexico could send her lumber in at a nominal rate of duty the whole population of the United States would be benefited save perhaps the few people who are owners of large forests. I suppose no one will have the courage to suggest that lumber is an infant industry which needs fostering. Mexico offers us lumber and wants it to enter this country free if possible. In return for this suggested concession we may be sure Mexico will give us liberal treatment.

The Mexicans are also interested in cattle raising and selling. They would like to send cattle into this country free of duty. At present Mexican cattle pay a duty of about \$3.75 per head—if this duty could be remitted or abolished the consumer in the United States ought to reap some of the benefit, and as the price of beef seems to be climbing upward rather steadily even this small measure of relief would be welcome to the millions who have butchers' bills to pay.

I make mention of cattle and lumber because of what I know personally of the wishes of the Mexican Government in respect to them leads me to believe that a highly satisfactory reciprocity treaty could be negotiated with Mexico with very slight difficulty, if the tariff law were a favorable one for this purpose.

The following memorandum on the subject of "Tariff on American Pianos in Mexico" has been received from one of the important manufacturers in this country:

"Acting under instructions, received from the president of this company, we beg to state, the tariff on pianos of all kinds into Mexico being 55 cents per kilo, the importer pays on American pianos a duty ranging from \$59 to \$122, United States currency, according to weight, American upright pianos weighing from 215 to 375 kilos net and American grand pianos from 280 to 444 kilos net.

"Mexican importers complain that they are obliged to pay greater duty on American pianos on account of their greater weight. The lower grade of pianos of the European manufacturers especially are of very light construction, and are so constructed to get the benefit of lower freight rates and lower import duty.

"While we are in a position to compete with European makers as far as quality and price is concerned, we cannot reduce the weight of our pianos without possible injury to quality and construction, or not to an extent to equalize, and therefore would welcome a reduction in tariff which would offset the advantage which European makers now have."

I am informed by Mr. Gottschalk, one of our highly efficient consular officers, who has recently been stationed in Mexico, that it is quite probable that concessions could be obtained from the Mexican government if we were authorized to negotiate for them, which would result in making a valuable market in that country

for American irrigation, mining and agricultural machines. Mexico has real need of these articles in carrying out her scheme of material development, just as she will feel increasing need for materials used in the construction of buildings, docks, railways, reservoirs and other public works. The market for automobiles of American manufacture might easily be made more valuable in Mexico if the subject were to be considered by the two governments with a view of making it part of a reciprocity arrangement. There are a number of other articles produced in this country which I could mention and which might properly be included to our advantage and that of Mexico in a reciprocity treaty between the two countries. But I have set forth, I think, a sufficient number of cases to prove that our export trade with Mexico can be very substantially and steadily improved and our national wealth materially increased if Congress would authorize negotiations of proper reciprocity arrangements or give to us a maximum and minimum tariff system which shall provide in a way the basis for legitimate trading in tariff concessions between the United States and all foreign governments.

WASTE IN EXTERNAL TRADE IN GENERAL AND WITH THE ORIENT IN PARTICULAR

BY JOHN P. YOUNG,

Editor, San Francisco "Chronicle;" author of "Protection and Progress," etc.

Something over a half a century ago a noted English economist called attention to the possibility of a relatively early exhaustion of the world's supply of coal. His warning, however, was treated with neglect when it was not pooh-poohed by half-baked geologists, who endeavored to demonstrate that the measures of mineral fuel were practically inexhaustible. It is not extraordinary that the suggestion should have been coldly received, for at the time he wrote the minds of men had been turned topsy turvy by the preposterous and since discredited doctrines of the Manchester school, which elevated trade above production and assumed that the wasteful process of unnecessarily moving things to and fro would benefit mankind.

Ten years ago the writer attempted to revive or create an interest in the neglected subject of conservation by taking the ground that the chief benefit conferred by a resort to a protective tariff was not that upon which most stress was laid, but rather its tendency to conserve resources which when once dissipated cannot be replaced, and for which no substitutes can be found that we may hope will even remotely approach the cheapness of those we are now deliberately wasting.

The concluding sentences of an extended discussion of the subject epitomized the view of the writer which the passage of time is constantly strengthening. They ran: "Cobdenism has this inherent defect, that it considers the exchange of commodities as more important than their production. The aim of protection is to promote production and to avoid waste, therefore it is the economic policy that must endure."

I see no reason for modifying the opinion elaborated throughout the discussion, that external trade is a source of tremendous waste, and that many illusions we have respecting the benefits of transportation will have to be dismissed if we desire to promote a rational economy which will tend to conserve the world's resources.

If general neglect had caused me to question the soundness of the views expressed in several chapters devoted to illustrating waste in transportation, recent events would have confirmed them. Almost imperceptibly there has grown up within the past few years a body of opinion which amply supports the theory advanced that unnecessary external trade is uneconomic.

When President Roosevelt called the governors of the various states of the Union to confer with him and other thoughtful men concerning the desirability of adopting measures to conserve the natural resources, the wisdom of such a course was promptly acknowledged. It is doubtful, however, whether some of those who have been most strenuous in demanding conservation have given much thought to the accomplishment of that result.

The arbitrary setting aside of large tracts of land now covered with timber is a step in the right direction, and the tentative efforts of the government to retain such mineral fuel deposits as have not been appropriated by private individuals is another. But they are very short steps and do not go to the root of the problem, whose proper solution does not demand the prevention of use, but imperatively calls for the elimination of wastefulness.

It must be obvious to the dullest understanding that no real remedy is effected by arbitrarily depriving the present generation of adequate supplies of timber or mineral fuel. There is no good reason why we of the twentieth century should deny ourselves so that those of the twenty-first may have plenty. In the case of our forests it may be necessary in order to insure the continued fertility of the land to see that it is not denuded of vegetation, but it is preposterous to claim that our obligation to posterity demands that we should place obstacles in the way of the utilization of ripe timber. It would be equally absurd to lock up and prevent the appropriation for present uses of iron ores, coal and fuel oil.

But while we may not morally nor economically be obligated to practice self-denial in the use of natural resources when their utilization is in response to real needs of the present, there is absolutely no excuse for wasting them, and sound public policy demands that the industrial system of a country, and, so far as may be practicable, that of the whole world, shall be so shaped that waste will be reduced to a minimum.

Especially is this demanded in dealing with our deposits of iron

and mineral fuel, which may be regarded as practically irreplaceable. It is conceivable that energetic measures might restore the fertility of a country by reforestation, but no one has suggested that the iron ore, the coal and the petroleum once removed from the bowels of the earth and consumed by man can be replaced.

Visionaries see in the utilization of the world's water courses a source of energy which may prove a substitute for that generated by coal and oil fuel, but it is ominous that concurrent with the development of electric energy the consumption of coal and oil proceeds at an accelerated pace. Thus far the use of electricity has made no impression upon the demand for mineral fuels, whose output increases at an enormous rate and out of all proportion to the growth of population.

We must dismiss as unworthy of consideration the speculations of those who believe and predict that when our supplies of iron and mineral fuel are exhausted substitutes will be discovered for them. As a practical people we must deal with the problem as it presents itself at present, and not put trust in the vagaries of those who assume that the future will take care of itself.

As a matter of fact, the problem is essentially one of the present. It is not a question of how posterity will be affected by the wasting of the earth's natural resources; it is an impending question, as is evidenced by the fact that despite the tremendously increased output of coal and iron they are becoming dearer and must continue to do so until practical methods of abating the demand for them can be found.

Some of those in attendance at the White House conference, notably Andrew Carnegie, evidently perceived that this is the case. Mr. Carnegie instanced the substitution of cement for steel in the construction of bridges; but thus far diligent study of the papers read or printed fails to disclose any suggestion that we may be artificially creating uses for iron and fuel which a resort to rational ideas and practices would render unnecessary.

There is little room for doubt that the modern theory that indiscriminate trading is a benefit to mankind is responsible for a tremendous amount of wastefulness. It has created the condition of mind which we are now laboriously striving to supplant. It has caused "economists" to regard as praiseworthy the rapid dissipation of natural resources. There is scarcely a writer of note who, in the

discussion of economic resources, does not assume that large outputs of irreplaceable resources are beneficial, without once asking whether they fill a real need or whether their temporary present abundance may not cause a dearth in the near future.

Take Great Britain as an example. The economic history of that country is the story of an eager effort to exhaust its irreplaceable deposits of iron and coal. For nearly a century it has been vigorously exploiting its coal and iron mines and exchanging their products for articles of luxury and foodstuffs. Professional economists have applauded her course, first finding in the rapid growth of population proof of the soundness of the forcing out policy and afterward, when the pressure for subsistence became a problem, justifying its continuance on the ground of necessity.

During all this period the British have been continuously exporting coal and iron to countries infinitely better provided with resources of that character than Great Britain. In 1907 the exports of coal, coke and manufactured fuel from the United Kingdom amounted to 66,063,258 tons, and an additional quantity of 18,618,828 tons was shipped as bunker coal for the use of steamships chiefly engaged in the work of helping the British to get rid of their fuel resources. In addition to this direct exportation of mineral fuel a large part of the remaining 183,000,000 tons retained for domestic consumption was consumed in creating energy for factories whose products are often shipped to countries nearer the supplies of raw material and with ampler fuel resources than Great Britain.

Despite the optimistic view of the professional economists and the absurd calculations of the geologists, the fruits of this suicidal course are already exhibiting themselves in the increasing price of coal and a corresponding increase in the cost of manufacturing in the United Kingdom. Even while the defenders of the wasteful system of presently profiting by the inconsiderate use of coal are arguing that the measures of the kingdom will last for hundreds of years, governments are compelled to recognize the menace of increasing prices and reluctantly consent to taxation measures designed to lessen exportation.

As in the case of coal, no regard has been paid by the British to the danger involved in the encroachment upon their store of iron ores. The assumption has been that when they were exhausted it would be possible to obtain supplies from other lands. This has

been done for several years, until now a large proportion of all the iron and steel manufactured in the United Kingdom is produced from ores derived from Spain and other countries. The consequences are visible in the increasing difficulty experienced by the British in maintaining their position in the industry. The troubles that now confront them, however, will seem insignificant when the time comes, as it surely will, when nations shall attempt to conserve their resources by following the example set by Great Britain when she placed an export duty on coal.

It ought not to need much argument to demonstrate that it is uneconomic to pursue such a course as that outlined in the preceding comment. Even if Great Britain could implicitly depend on unfailing supplies of coal and iron from other countries when her own measures are exhausted, or can no longer be profitably worked, it must be obvious that it is wasteful to export, in one form or another, perhaps 100,000,000 tons of coal annually, if at some future time she will be compelled to import coal from other parts of the world.

But we need not go abroad for awful examples. We are beginning to find them at our own door. If this were not the case we should not hear of conferences being called to consider the conservation of the natural resources. If the tremendous and constantly increasing consumption of coal and iron in the United States was not causing alarm, we should not have been afforded an exhibition of wise men in council studying and suggesting methods of preventing wastefulness.

It is doubtful, however, whether these conferences will accomplish more than to direct attention to the subject, for those who attend them persist in approaching the matter from the standpoint of economists, who think the prosperity of a nation is dependent on the multiplication of middlemen, and whose teachings inevitably tend to create the impression that trade is of more importance than production. This state of mind is reflected in the importance attached to transportation facilities, and the refusal to consider that a vast quantity of the hauling to and fro which is constantly in progress is positively wasteful.

When the benefits of facile transportation are abstractly considered the claims made for it seem to be warranted, but when we turn our attention to what is being done by shrewd men, such as

those who administer the affairs of the Standard Oil Company, we speedily discover that when unregulated its tendency is toward wastefulness. The organization referred to finds it expedient to prohibit the shipping of its products from points other than those nearest the seat of consumption. It forbids patrons in Missouri selling to consumers in Ohio oils produced in Pennsylvania. The establishment of zones of this sort is undoubtedly in restraint of trade, but it unquestionably prevents waste, for obviously it is wasteful to ship oils from Pennsylvania to St. Louis and then reship them eastward to points hundreds of miles nearer to the field of production.

It may seem radical to propose that government should deal with an economic problem just as sagacious business men would, and it is not likely that such a proposition will be acted upon until necessity enforces such action. But the time will come, sooner or later, and much sooner than most of us expect, when a complete reversal of the present uneconomic policy, which is fostered by the provision of the federal constitution, that forbids the collection of export duties, will be demanded by the nation.

To urge such a probability at a time when an insistent demand for a revision of the tariff comes from a quarter which has hitherto enjoyed the benefits of the protective system may seem absurd to some, but it is infinitely more absurd to hold conferences to study means of conserving the natural resources and almost in the same breath clamorously demand the adoption of a policy which must inevitably result in their depletion by wasteful methods.

The demand for revision, which has the support of a large section of the manufacturing interests of the country, is largely based on the supposition that it will increase our markets abroad. The same elements which favor the conclusion of reciprocity treaties demand revision, and their objective is the extension of our foreign markets. In every instance of which we have knowledge the treaties made for reciprocal trading, when they result in its increase, have been at the expense of true economy. Their invariable effect is to cause waste in transportation and to stimulate still further the effort to get rid of the natural resources.

Entertaining these views, I am impelled to urge that in considering "our tariff relations with the Orient, actual and desirable," the subject should be approached not from the standpoint of the manu-

facturer, who pertinaciously demands the right to profit at the expense of the nation by getting rid of its irreplaceable resources as rapidly as possible, but from that of the man who takes some thought of the future and who realizes that nations, no more than the foolish virgins of the Scriptures, who wastefully consumed their oil, can escape the penalty of such folly.

When the literature on the subject of the extension of our trade with the Orient is examined the discovery is made that the optimists base their opinion of its future greatness on our ability to supply the Orientals with manufactured articles, into whose production the raw materials whose rapid consumption is causing alarm will enter in large quantities. Only the uninformed imagine the possibility of our becoming exporters on a considerable scale to Eastern countries of the products of the soil. The thrift of the Asiatic and our own future necessities make such an assumption seem irrational.

In the event of an Asiatic development on the scale which some predict, and many believe probable, the demand from Western countries will be chiefly for manufactured articles. In the nature of things it cannot continue for a long period, for if the movement toward the adoption of the habits of the West becomes a dominant factor in the development of Eastern Asia, it will result in the creation of formidable competitors, as the Asiatics, in spite of their backwardness, are a very capable people as the recent progress of Japan conclusively demonstrates.

The probabilities favor the belief that the Oriental nations in their awakening, and while they are building themselves up, will make immense demands upon our irreplaceable resources. Some idea of the extent of the demand may be gained from the statement made that the United States Steel Corporation is negotiating with Russia one of the largest steel-rail contracts ever made. If the contract is concluded, the corporation will supply over a million tons of steel rails for retracking the Siberian road. It is not unlikely that China may make even larger demands upon our resources.

No one will dispute that the immediate result of an extension of trade with the Orient on these lines will prove profitable to the nation. It cannot fail to stimulate national prosperity, by giving employment to large numbers of workers, who in turn contribute to the general welfare by expending their earnings. But if there is any foundation for the assumption that we are encroaching upon

our irreplaceable resources; if the recent White House conference was not an unnecessary bit of pessimism, then the prosperity which is thus purchased will be of the same sort a dissipated heir enjoys while getting rid of his inheritance without attempting to do anything to replenish his coffers.

It therefore becomes incumbent on statesmen to inquire how much reason there is for believing that our resources are being impaired, and if the conclusion of the conferees at the White House that "the forests which regulate our rivers, support our industries and promote the fertility and productiveness of the soil should be preserved and perpetuated, and that the minerals found so abundantly beneath the surface should be so used as to prolong their utility," is sound, then it is their duty to shape the laws so that these purposes may be accomplished, even if the result is to completely upset the theories of the economists who teach that mankind is benefited by wasteful methods.

In an article such as this it would be impossible to present the evidence that demonstrates the soundness of the assumption that the natural resources are rapidly being dissipated, nor is it necessary to do so, as the papers read by the conferees at the White House are easily accessible. It is sufficient to quote Carnegie's undisputed statement, that our processes of mining and our methods of consuming coal are wasteful, and that our supply of iron ore, at the present rate of consumption, will not last one hundred years.

In 1881 the output of coal in the United States was 85,881,039 short tons; in 1907 it had increased to 488,800,000 tons. The increase in a single year, from 1906 to 1907, was over 90,000,000 tons. A quarter of a century ago the prediction that our output would increase fivefold in twenty-six years would have been deemed preposterous. The assumption that the next twenty-six years will witness a like increase must appear equally incredible, yet failure to keep the pace means an interruption to what we have hitherto considered commercial progress.

The Birkinbine engineering offices of Philadelphia recently issued a chart illustrating the expansion of the pig-iron industry of the United States between 1890 and 1907, which developed the interesting facts that the product had increased from 327 pounds per capita in the first-named year to 675 pounds in 1907, or 106 per cent., and that the price, despite the enormousness of the output, had

greatly increased, both absolutely and relatively, as measured by the currency in circulation. A leading journal, commenting on this presentation, remarked: "The chart shows the phenomenal growth and the great commercial value of our iron industry," and it doubtless voiced the opinion of men of affairs throughout the land; and the judgment would probably be the same if the quantity produced were 60,000,000 or 100,000,000 tons annually, instead of the 27,000,000 tons reached in 1907.

From the standpoint of the economist who deals wholly with the present, the enormously increased output of coal and pig iron must be regarded as beneficial. When a people are able to annually consume 675 pounds per capita of a useful metal like iron, they are apparently in better case than they were when their consumption was less than one-half that quantity. But the benefit is of the most transitory character and more apparent than real. If the output of iron and coal could be indefinitely increased, the benefit would be indisputable, but as they are both limited in quantity and practically irreplaceable, their injudicious use can only be compared with that of a lot of shipwrecked mariners who prodigally consume their store of provisions while adrift on a raft in midocean.

The analogy is complete. So far as the use of iron and coal is concerned, we are proceeding even more insanely than mariners who would improvidently consume their store of provisions when menaced by the possibility of rescue being long deferred, for we have adopted a commercial policy which economists extol, of getting rid of our irreplaceable commodities by selling them to foreigners who, under proper stimulus, could provide themselves from their own stock. To extend the simile of the shipwrecked mariners, our action resembles the inconceivable folly which an insane sailor on the raft would display if he threw part of his bread to the fishes and thus deliberately increased the chance of starvation.

If there is any doubt on this point it will be speedily resolved by studying the import of a demand made upon the Interstate Commerce Commission at one of its recent sittings, where it was shown by the representative of the Harriman lines that unless the trans-continental railroads were permitted to charge a lesser rate for freight dispatched over their lines to the Orient than that exacted from shippers of domestic goods they would not be able to compete with the Suez route, as nearly all the goods shipped to Eastern

Asia via the transcontinental railroads and steamships sailing from Pacific ports of the United States came from the territory east of Chicago and close to the Eastern seaboard.

A large part of our Oriental business is made up of manufactures of iron. The probability of securing a million-ton contract to supply the Siberian railroad with rails of American manufacture has already been noted, and the tables of exports show that we are now shipping large quantities of rails, wire nails, machinery and other iron products to Asiatic countries. We are also exporting considerable quantities of raw cotton by direct and circuitous routes to Eastern Asia.

It is not necessary to state with exactness the extent of the trade already developed. It is, however, of considerable consequence and is a serious factor in the inroads made upon our natural resources, especially those of iron and coal, and incidentally of timber. But if it were insignificant at present, we have to consider the fact that the avowed purpose of the advocates of a revision of the tariff as it relates to Oriental countries is to stimulate to the utmost our export trade to them by the dubious device of admitting their products to this country at lower rates of duty than are exacted at present.

It would be a work of supererogation to point out that a policy of "forcing out" such as that outlined in the proposals of the tariff revisionists to stimulate exports of iron and coal to Asiatic countries is in the highest degree inconsistent with the demand for the conservation of the natural resources of the country. Such a course may temporarily promote prosperity, but the inevitable result will be to hamper future commercial progress by making iron, coal and timber dearer and less accessible to the domestic consumer. The remarks of the author of "Made in Germany," in commenting on the draft made upon the coal measures of the United Kingdom, are applicable to us: "Every ton of coal extracted from our coal fields," he said, "implies a permanent loss of wealth to that amount. The coal doesn't grow again. . . . When you send it away to the foreigner to feed his factories, which destroy or injure your factories and take in return from him foodstuffs, . . . you are letting your land deteriorate."

It is impossible to dispute this; the conclusions of the conservation conference are in perfect accord with the deduction, yet the

disposition exists (and it will probably prevail) to disregard the consequences by continuing the fatuous policy of getting rid of our resources as rapidly as fancied immediate commercial needs demand. In the future, as in the past, the only concern of statesmen will be the present. Any proposition which suggests an impairment of the facilities for converting the natural resources of the country into immediate profit will receive scant courtesy from those who legislate for us and will be derided by the classes whose ideas of national prosperity are bounded by consideration for the immediate present.

I say this in full consciousness of the earnestness of the advocates of conservation, and the apparent progress made by the movement for the protection of the forests and the preservation of the mineral lands still in the possession of the government. The success of the latter is wholly dependent upon the fact that individual interests are not directly involved. The policy of conservation would have achieved success had it been inaugurated three-quarters of a century ago; but now that the major part of the country's forests have disappeared, and nearly all the valuable mineral lands are in the hands of private persons, the almost insuperable difficulty attending regulation when individualism has thoroughly established itself, as it has in the United States, will prove a constant obstacle to consistent efforts to conserve.

Before the world can achieve real economies through conservation, it will be absolutely necessary to destroy the impression that all trade is beneficial to mankind. We shall have to learn to distinguish between that which is economical and that which tends to waste. Protection should have developed this knowledge, but it has failed to do so because its advocates have not clearly perceived that its paramount function was the elimination of waste by bringing consumer and producer as closely together as possible.

There has always been a confusion in the protectionist mind on this latter point, and it is responsible for the vagaries of the advocates of reciprocal trade, whose estimates of the national prosperity are based on the figures of exports and imports, and who have become blinded to the fact that the increasing volume of the latter may indicate growing wastefulness and therefore not productive of a prosperity whose genuineness is evidenced by the permanence of its results.

No rational economist, when the matter is squarely presented

to him, will dare to assert that the prosperity of to-day, which will inevitably produce scarcity in the near future, is desirable. To maintain such a position he would have to defend the practices of nomadic savages, with whom life is a feast or a famine. It would seem, then, that every effort and every teaching should be directed to shaping our industrial and commercial energies, so that the elimination of waste shall be the first consideration of statesmen. In short, we should live up to the theories which found expression in the conservation conference.

We can do so in our dealings with the Orient if we frame our tariff schedules with a view to discouraging rather than to encourage the importation from Asiatic countries of products which we may produce ourselves. If we bring ourselves to realize clearly that the forcing out of our irreplaceable products, which results from the feverish desire to exchange them for things which we do not need, or which we could produce ourselves, will invite disastrous consequences in the near future, we shall approach the subject of conservation in the right frame of mind. If, for instance, the generality could or would grasp the fact that the direct or indirect exchange of millions of tons of coal and iron for the products of Asiatic silkworms spells dearer coal and iron not many years hence, the uneconomic character of this branch of Oriental trade would be conceded, and it is typical of the major part of our trade with Asia, and for that matter of most international exchanges.

I am aware that advocacy of a reasonable restriction of trade will be met with the *reductio ad absurdum*. Some one will say: "Why not carry out the theory in this country and stop waste by restricting wasteful trading between the peoples of the various political sub-divisions." The answer is simple enough. In the case of a man who is impairing his health by intemperate eating and drinking, a judicious doctor will warn him to put some restraint on his appetite, but he would hardly make the blunder of advising him to wholly cease eating.

It is plainly apparent that the very things which a consensus of opinion credits with being the great sources of modern prosperity—iron and coal are limited in quantity. Visionaries tell us that when they are all gone the world will find something to take their place. But economists have no right to assume anything of the kind. It is their business to deal with the known resources,

and if they can, to point out how they can be conserved. Something in that direction can be accomplished by a resort to a tariff based wholly on the idea of making the best use of what we have so that there may be something left for the future. We must get rid of the absurd notion that we are benefiting by burning our candle at both ends. We will have to divest ourselves of our pride in a railroad system which consumes millions upon millions of tons of iron and coal annually, and ask ourselves how much of the work it performs represents absolute waste and how much genuine service.

Such an inquiry will have to go a step further than the suggestion embodied in Andrew Carnegie's presentation of the fact that "moving 1,000 tons of freight by rail requires an eighty-ton locomotive and twenty-five twenty-ton steel cars (each of forty-ton capacity), or 580 tons of iron and steel, with an average of, say, ten miles of double track (with ninety-pound rails), or 317 tons additional, so that, including switches, frogs, fish plates, spikes and other incidentals, the carriage requires an equal use of metal," whereas "the same freight may be moved by water by means of 100 to 250 tons of metal, so that the substitution of water carriage for railway carriage would reduce the consumption of iron by three-fourths to seven-eighths in this department, reducing at the same time the consumption of coal for motive power from 50 to 75 per cent, with a corresponding reduction in the coal required for smelting." If we are really in earnest in the matter of conservation we shall endeavor to learn how much of the 21,653,795,696 tons of freight moved one mile in 1906 by the 55,439 locomotives and the nearly 2,000,000 freight, baggage and express cars operated on American railroads was uselessly hauled, and take steps, not merely to reduce the waste by substituting water carriage, but to eliminate it wholly, if possible, by dispensing with unnecessary hauling wherever practicable.

Water carriage is unquestionably cheapest when available, and the fact that we have deliberately neglected our waterways is overwhelming evidence of our prodigality in more ways than one. But those who lay too much stress on the desirability of substituting that method of transportation for the more costly movement of freight by rail are apt to close their eyes to the wasteful features of the former. Ten years ago the writer called attention to a peculiarity of British external trade, by instancing that in 1896 the

exports of coal from the United Kingdom constituted 84.7 per cent of the quantitative volume of the export business of that country during the year named. Or, as the British author from whom the information was derived put it: "Coal enters into practically the whole of our exports and probably forms the cargo of over 50 per cent of the tonnage cleared from the United Kingdom." Since 1896 the exports of coal from the United Kingdom have increased from 44,200,000 tons to 66,063,258, and the bunker coal in 1897 reached 18,618,828 tons.

There is no attempt to dispute the assertion that the exportation of British coal is causing a steady rise of the price of that commodity in Great Britain, nor that the recent export tax on coal was advocated on the ground of conservation, but the British are afraid to look the situation squarely in the face. They have created a condition for themselves which they feel admits of no mending except by a resort to heroic methods, that would involve a sacrifice on the part of the present generation which it is not ready to make. The United States and other new countries, however, are in better case. It is not imperatively demanded of us that we shall exchange our irreplaceable iron and coal and our timber resources for foodstuffs produced by other peoples. We can easily feed and clothe our population, and in accomplishing that result, by bringing consumer and producer closer together, we shall automatically eliminate the waste which ensues when energy and resources are uselessly expended.

While under the hallucination that the world becomes richer by wasting its energies in useless transportation, we listen to the plans of those who foolishly imagine that their country and mankind can be benefited by getting rid of natural resources which cannot be replaced. In the category of such advocates must be placed those who imagine that the exportation of vast quantities of iron and the products of iron to Asiatic countries will contribute to American prosperity. It may temporarily produce that result, but the inevitable outcome of the policy will be future deprivation. We cannot eat our cake and save it at the same time.

The views here expressed may just now seem extreme, and the natural inference from them that the most practicable way of conserving resources is through trade regulations will prove repugnant to the vast number of people who believe absolute freedom of trade

is a promoter of prosperity. The units composing the trading world are now imbued with the idea that the destruction which is profitable to the individual is not only justifiable but beneficial to mankind. The individual owner of forest lands is ready to profit by their denudation, and does not ask what the consequences will be to other than himself. But a state of the public mind is rapidly being created which will not shrink from placing restraints on the owners of timber lands, and this will soon be followed by a like imposition on the owner of iron mines and coal measures. A step in that direction which will not seriously impinge upon the individualistic theory will be the enactment of tariff laws which will have the effect of discouraging exports that involve waste of the natural resources of the country and future scarcity and consequent dearness.

OUR TARIFF RELATIONS WITH THE PHILIPPINES, ACTUAL AND DESIRABLE

BY GENERAL CLARENCE R. EDWARDS, U. S. A.,
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At present our tariff on imports from the Philippine Islands is governed by section 2 of the Act of March 8, 1902, entitled "An act temporarily to provide revenue for the Philippine Islands, and for other purposes." Briefly this provides that on all articles coming into the United States from the Philippine Archipelago the rates of duty shall be those paid on like articles imported from foreign countries, with the proviso that on such articles, the growth and product of the Philippine Archipelago, there shall be collected but 75 per centum of the aforesaid rates.

On articles imported into the Philippine Islands from the United States there is imposed the same rate of duty as upon the same articles from foreign countries.

Article 4 of the treaty of Paris, between the United States and Spain, provides that:

The United States will, for the term of ten years from the date of the exchange of the ratifications of the present treaty, admit Spanish ships and merchandise to the ports of the Philippine Islands on the same terms as ships and merchandise of the United States.

Ratifications were exchanged at Washington on April 11, 1899. Under the terms of this treaty Spanish goods were entitled to the same treatment on importation into the Philippine Islands as American goods, and for obvious reasons this same treatment was extended to the goods of all foreign countries. Thus the American exporter has received no preferential treatment in the Philippine market other than the very slight advantage which may have been given him by the description of articles under the various schedules of the Philippine tariff. Where articles could be so described as to benefit the American exporter it has been done.

Reverting to the 25 per cent reduction of duty granted to articles produced in the Philippine Islands, on importation into the

United States, it may be stated that this reduction has been of no advantage whatever in increasing our trade with the Philippine Islands. The principal articles exported from the Philippine Islands, with the exception of sugar and tobacco, are on the free list, and would, therefore, receive no advantage from this reduction. There is, because of non-use of the Philippine tobacco in the United States, no demand therefor, and the 25 per cent reduction has not been sufficient to warrant experiments as to its introduction. In the matter of sugar the 25 per cent reduction has likewise been insufficient to attract Philippine sugar in any material quantity to our markets. The amount heretofore imported, omitting speculative shipments during one year, is negligible. It may be added that the speculation was unfortunate.

Briefly, the tariff laws, both of the United States and the Philippine Islands, are such as not to specially encourage trade between the United States and its Far Eastern possessions. The Philippine Islands are to the American exporter a foreign market. He must compete therein on equal terms with the various European and Eastern exporters. On the other hand, the United States tariff is such as to offer no inducements to the Philippine producer.

With the exception of Manila hemp (abacá), which has been attracted to the United States in increasing quantities by legislation which provides for the return of the export duty, in the case of hemp coming directly from the Philippine Islands, for use and consumption in the United States,¹ we receive now no more of the products of the Philippine Islands than we did in 1902 on the establishment of civil government in those islands. On the other hand, we export to the Philippine Islands no more goods now than we did at that time.

On April 11, 1909, the ten-year period, during which we have granted to Spanish merchandise the same treatment in the Philippine Islands as extended to our own, will expire. This will remove one of the obstacles to such legislation as we deem wise in our efforts to create more favorable trade relations with our Eastern possessions.

That we can very materially increase our exports to those islands does not admit of question. Seven years ago legislation was enacted providing for the free admission of American goods into

¹Paragraph 406, section 13, Act of March 3, 1905.

Porto Rico, and, reciprocally, providing for the free admission of Porto Rican goods into the United States. These provisions have resulted in increasing the external commerce of Porto Rico from \$18,000,000 to \$50,000,000 per year, and practically 90 per cent of its imports come from the United States.

During the same period the external commerce of the Philippine Islands has been practically at a standstill, and to-day less than 20 per cent of its imports come from the United States.

In so far as trade with our Far Eastern possessions is concerned, the effort to amend the United States and Philippine tariffs has in view two principal objects; the first, to make the Philippine Islands a part of the United States home market, and the second, by providing a better market for the raw products of the Philippine Islands, to increase the purchasing power of the islands, thus increasing to the United States exporter the value of the market.

Comparison with results obtained in Porto Rico leads to the conclusion that if American goods are admitted free of duty into the Philippine Islands, instead of furnishing 20 per cent of the goods imported into those islands, the United States will furnish more than 80 per cent, and if Philippine products are admitted free into the United States, the imports into the islands will be at least \$100,000,000 a year, instead of \$33,000,000, as at present.

Specifically, what is desired by those urging closer trade relations with the Philippine Islands is the free admission into the Philippine Islands of imports from the United States, and the free admission into the United States of all articles the growth and product of the Philippine Islands.

The objections to this, in addition to the one resulting from the treaty of Paris, referred to above, and which will be removed on April 11, 1909, have been: First, at the time of the enactment of the Philippine tariff the islands were without suitable laws governing internal taxes. The receipts of the custom house were absolutely essential to the maintenance of a government in the islands, and it was felt that the free admission of goods from the United States would reduce the customs receipts of the islands below the minimum demanded by the conditions then existing; second, the fear fostered by representatives of sugar and tobacco industries that the free admission of sugar and tobacco from the Philippine Islands would injure those industries in the United States. The claim was

not that the present production was sufficient to work injury, but that, under the stimulus of the United States market, the production would be greatly increased; third, the claim put forward by certain so-called "Anti-Imperialists" that closer trade relations with the Philippine Islands would render it more difficult to grant the political separation which they advocated.

These objections have briefly been met as follows: We have now in the Philippine Islands suitable laws governing internal taxation, and the income from that source is such that the government could be satisfactorily administered even with the loss which would result to the customs revenues from the admission free of duty of imports from the United States.

The second objection, while it is believed to be groundless, has been met by a proposition to limit the amount of sugar and tobacco which shall be admitted free of duty into the United States in any year to an amount which would notoriously not affect in any way those interests in the United States.

The third objection has never been urged by any considerable number, and has been satisfactorily met from the first by the simple fact that whatever may be our future political relations with the Philippine Islands, it is desirable that we should have and hold as large a share in the trade of those islands as possible. Nor is the arrangement which it is proposed to bring about one which we would not desire even though those islands were politically separate from the United States.

It does not require a very deep study of this subject to show that the proposed legislation is not wholly to the advantage of the Filipino. As a result thereof the United States adds to its home market 8,000,000 people, and by extending to these people a market in turn for their products—products which in large part compete with no article of American production—it but increases their purchasing power and makes the market acquired more valuable. The enactment of this legislation does not call for charity, but, as has well been said, for "enlightened selfishness."

THE CONVENTIONAL TARIFF SYSTEM

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The Origin of the Present Tariff System in Germany

The German tariff system at present in vogue may be said to date from 1891, when Germany concluded a number of reciprocity treaties with neighboring countries. While it cannot be said that reciprocity treaties among nations, based upon mutual concessions in the matter of customs duties, were unknown before that date, yet the fact remains that the present German system marks a distinct departure in the tariff policies of European nations, which are adopting it in growing numbers.

Other nations, including our own, had negotiated reciprocity treaties from time to time; but, taking the United States as an illustration, they were mostly sporadic, like our treaty with Canada in 1855, or with Hawaii in 1875. They were more in the nature of an extraneous graft upon our tariff tree, than an organic part of it. The fact does not seem to be realized generally that it is not the treaties that supplement the German tariff, but, on the contrary, the tariff as daily applied to German imports from foreign countries is largely made up of the rates fixed by those treaties. True, France preceded Germany in the adoption of a system of reciprocal treaties, but this was the outgrowth of a policy of Napoleon III, who, largely for political reasons, aimed at removing existing tariff barriers in the international trade of France, his treaties having for their object and effect the adoption of what came to be very near free trade. No sooner had it become clear, however, that continental Europe had definitely turned its back upon free trade than the French resolved to return to autonomous tariff legislation.

It was at this point that Germany stepped into the shoes of her Western neighbor, but in adopting what was apparently the same system the Germans made it serve a new purpose: the regulation of the tariff with a two-fold object in view, protection to home industries and the lowering of tariff barriers to domestic products in foreign markets.

Briefly told,¹ the history of the adoption of the present tariff policy by Germany is as follows: After a brief interval of free trade, which the German empire inherited from the Zollverein in 1871, a protective tariff was adopted in 1879 in response to the demands of the manufacturing element, especially the iron and textile industries, which were hard pressed by English competition. Under this tariff German industries took a new lease of life, and in a decade reached such proportions as to completely overreach the capacity of the home markets for absorbing their output. As most of the European countries had in the meantime adopted protective tariffs, Germany's foreign trade was greatly hampered. It was felt to be necessary to secure in those countries a reduction of duties upon the products which Germany exported. It was realized, of course, that the only basis for negotiations with foreign nations looking to that end lay in mutual concessions or reductions of duty. The same interests that were instrumental in bringing about the adoption of the protective tariff in 1879 were now most active in demanding the adoption of reciprocity treaties. The protective tariff having accomplished the object for which it was intended, to enable the German industries to get on their feet, these industries now felt able to meet foreign competition at home. They were, therefore, willing to forego the advantage of continued protection at home if, in return for the advantages surrendered, they could obtain greater facilities for entering foreign markets.

The imperial government, accordingly, entered into negotiations with foreign nations, resulting in the conclusion of reciprocity treaties for a period of twelve years with seven countries: Russia, Austria-Hungary, Italy, Switzerland, Belgium, Roumania and Servia. The negotiations were conducted on the basis of the then existing tariff of 1879, which was thus greatly reduced as a result of the treaties. The new reduced tariff, made up of the rates of duty agreed upon in the seven treaties or *conventions*, came to be known as the *conventional* tariff, while the old tariff of 1879, which still remained on the statute books, was called "general" or "autonomous." The application of the conventional tariff was not confined to the seven nations with which treaties had been concluded.

¹For a more complete account of the history of the adoption of the German tariff, the reader is referred to articles by the present author in the *North American Review*, March and September, 1905, and the *Review of Reviews*, December, 1905. See also Percy Ashley, *Modern Tariff History*.

It was extended to imports from all countries with which Germany had most-favored-nation treaties, and as these comprised practically all the nations with which Germany carried on commerce of any importance, the autonomous tariff of 1879 remained simply on paper except for those rates which were not affected by any of the seven treaties.

The experience of Germany under the conventional tariff was so satisfactory that before the twelve-year period for which the treaties had been concluded had expired, in December, 1903, it was resolved to continue the operation of that system. In the meantime, however, great economic changes had taken place. The quarter of a century which lay between 1879, when the autonomous tariff was adopted, and 1904, when the conventional tariff was to terminate, witnessed the great decline of the agricultural and more than proportional development of the manufacturing industries in the scale of relative importance in the empire. In 1879 the Agrarian party was an ardent advocate of free trade, because Germany depended on foreign markets as an outlet for its excess of cereals and other farm products, while at the same time the agricultural population had to depend on British and French sources for its supply of cheap agricultural implements and other articles of personal use. By 1900 the situation had undergone a radical change. Not only had Germany ceased to be an exporter of cereals, but, owing to competition of the United States, Argentina and Russia were obliged to become importers of grain. The owners of large German estates found it impossible to compete with the cheap agricultural products, not only grain, but cattle and meats, raised on virgin soil with but a slight expenditure of human labor. The cry of protection now came loudest from the agrarian camp, which also evinced great hostility to reciprocity treaties. In any event the demand was made for a revision of the tariff for the purpose of not only greatly raising the duties on agricultural products, but also of making the increased protection safe from encroachment through the conclusion of new treaties.

On the other hand, the manufacturers were for the most part satisfied with the existing duties and were even willing to go to the extent of still further reductions if, by so doing, they could secure reductions in the tariffs of foreign countries. Both sides agreed as to the necessity of a thorough revision of the tariff before the

expiration of the reciprocity treaties; the agrarians, because they wanted increased protection, the manufacturers and exporters, because they desired more scientific and up-to-date classification of commodities.

In pursuance of this practically unanimous wish, the government undertook the preparation of a draft of a tariff bill, which consumed five years of labor on the part of a special commission of thirty-two representatives of the agrarian, manufacturing and commercial interests, acting in co-operation with the tariff experts of the treasury and other government departments, in addition to 2,000 trade and technical experts, who were consulted by the commission from time to time. The tariff bill which resulted from these labors was introduced in the Reichstag by the government early in 1902, and after about ten months' deliberation, passed, with some changes, on December 25, 1902. It contained but one set of duties, with the exception of rye, wheat, barley and oats, for which both general and minimum rates were provided to prevent further reductions through reciprocity treaties.

The government immediately took up negotiations with foreign countries for new reciprocity treaties, which proved more difficult than had been anticipated. As the treaties could not all be concluded before the end of the year 1903, when the old treaties were to expire, the latter were by mutual consent allowed to remain in force for more than two additional years. On February 22, 1905, the Reichstag ratified the seven treaties concluded with the nations which had maintained reciprocal tariff agreements with Germany since 1891, and the country was given a year's time to prepare for the new conventional tariff, the inauguration of which was set for March 1, 1906. The new treaties were likewise concluded for a period of twelve years, so that the present tariff of Germany cannot be materially changed before January 1, 1918, and is likely to remain in force somewhat longer. In addition to the seven nations mentioned, commercial treaties or agreements have been concluded with Sweden, Bulgaria, Greece and the United States, and negotiations with other countries are also pending.

Is the Conventional Tariff System Desirable?

The answer to that question is determined by the end for which the tariff of a country is intended. The conventional tariff system,

as at present in vogue, is the result of a natural evolution that accompanied the growth of modern industry on a large scale with its resultant expansion of international commerce. As long as the productive capacity of a nation does not exceed the consumptive capacity of its own people there is no need for a conventional tariff. Such a nation will either find it necessary to adopt an autonomous protective tariff, if competition from foreign countries should interfere with the development of its own industry, or a moderate tariff for revenue purposes only, if it has no industries to develop (*e. g.*, Turkey), or is strong enough not to fear foreign competition (*e. g.*, Great Britain). In any of these cases one tariff consisting of a single set of duties applicable alike to all foreign nations is all that will be adopted. As soon, however, as the principal industries of a country assume proportions in which the national boundaries cease to be a bulwark of protection and turn into a hindrance to the free outflow of their products to the world's markets, the single tariff ceases to satisfy the needs of the hour. The answer, therefore, is plain that a nation reaching the stage of industrial and commercial development such as characterizes the present condition of the United States must, in the interests of the very industries which have been built up with the aid of a protective tariff, take steps to bring about a removal of the obstacles which in the form of excessive duties or other restrictive legislation interfere with the circulation of its products in foreign markets. But a most cursory survey of the international field reveals the fact that similar conditions prevail in many of the countries to which we wish to gain more ready access for ourselves, and that the only way this can be done is by way of mutual concessions.

This explains why the movement for reciprocity which calls for tariff reduction is led by manufacturers not only in this but in all countries where similar conditions prevail.

Is the Conventional Tariff System Practicable?

But granting the desirability of a tariff system which lends itself to the double purpose of securing necessary protection at home as well as opening the doors of foreign markets, the question arises as to whether the conventional tariff system is practicable. Here we must leave the ground of speculative reasoning and take up the question in its national aspects, viewing it from the stand-

point of concrete facts and economic and political conditions which go to make up our body politic.

There can be no question that the conventional tariff system in the hands of Germany has proved to be very efficacious and has enabled that country to achieve the ends for which it was designed. Nor can there be any doubt that Germany has fared far better with her conventional system, than France with her general and minimum tariffs. The experience of these two leaders among the nations of the European continent, as well as that of their respective followers, has led to the gradual abandonment of the general and minimum tariff system and the adoption of the conventional tariff system practically all over Europe with the exception of France and Spain, disregarding certain deviations from either system by some minor countries like Norway and Greece. But whether it could likewise prove to be best adapted to conditions prevailing in the United States depends on whether the factors which determine its success in those countries are also present in the United States.

It is impossible to speak of the advantages or disadvantages of the conventional tariff system without comparing it with the French or general and minimum tariff system, since under a dual tariff system one is the alternative of the other.

A brief description of the salient features of each will, therefore, be in place. In the conventional system there are two tariffs, a general (or autonomous) and a conventional. The former, as the name implies, is adopted by the legislative body, and is applied to the products of every nation which has no treaty or agreement to the contrary. The conventional tariff is made up of the reduced rates granted to any of the foreign nations with which reciprocity treaties or conventions have been concluded. It is a composite tariff, since each nation bargains for reductions on those articles only in which it is primarily interested, *e. g.*, in the treaties concluded by Germany, Russia naturally secured concessions mainly on agricultural products; Austria-Hungary was interested both in agricultural and in certain manufactured articles; Switzerland secured reductions of rates on embroideries, laces, certain textiles, wines, cheeses, etc.; Italy, on wines, silk, velvet, etc.; Belgium, on iron and steel products, lace, etc. The combined reductions made up the conventional tariff; in all cases where the reductions on a certain article granted to one nation exceeded the reduction on the same article

granted to another, the lowest rate granted to one was extended, under the operation of the most-favored-nation clause, to every nation which had either a reciprocity treaty with Germany or a general treaty securing to it most-favored-nation treatment.

In the French system, consisting of general and minimum duties,² both tariffs are adopted by the legislature, the minimum being applied to foreign nations either as a result of special treaties or agreements to that effect, or under the operation of the most-favored-nation principle. Under this system the concessions to be granted by France are determined by Parliament in advance.

The chief advantages of the conventional system over the general and minimum were discussed by the writer in the article on the "Double Tariff System," published in *THE ANNALS* for May, 1907. They may be briefly summarized here to preserve continuity of argument. They are as follows:

1. *Strategic.* Only one set of duties having been adopted, this tariff serves as a basis for negotiations without disclosing in advance to the other side the extent to which the first nation is willing to make concessions.

2. *Elasticity.* Representatives of two countries having but one tariff each as a basis of reciprocity and with power to make and accept concessions which in their judgment seem fair and reciprocal, have a better chance to come to an agreement than in the case when their hands are tied with a rigid dual tariff, which prescribes for each commodity the minimum rate below which they cannot go by way of concession, no matter what advantage the other side may be willing to offer in return.

3. *Stability.* The conventional tariff, as has been pointed out, consists of rates agreed upon and fixed by reciprocity treaties drawn for a number of years, the period in most of the treaties between Germany and other countries being a minimum of twelve years, after which the treaties automatically remain in force, unless abrogated by either of the parties. During the time the treaties remain in force the rates stipulated therein cannot be raised without the consent of the other party. Under the French system the treaties merely provide for the application of the minimum tariff without

²The French system is generally, though erroneously, called "maximum and minimum" in this country. While the lower rates are actually minimum, the higher are by no means maximum, since the law authorizes the government to raise the general rates in case of a tariff war with a foreign country.

fixing the rates of duty under that tariff. The government is thus free to raise the rates at any time during the life of the treaty so long as the other party to the treaty is not required to pay a higher rate than any other nation. The advocates of the French system see in this a great advantage, as it leaves the country free to revise its tariff rates whenever such course may seem advisable in its own interests. The adherents of the conventional system, on the other hand, believe that stability is of far greater value to the business community than freedom to change rates of duty at will. They argue that a business man with tariff rates definitely fixed for several years to come at home and in the foreign countries with which he is doing business, will feel less hesitation in making large outlays of capital for manufacturing plants and permanent improvements, than he would if he knew that his calculations for a profitable investment could be upset any day by changes in the tariff at home or abroad. Moreover, an increase of the minimum rates by one country having reciprocity treaties with other countries would be apt to be followed by similar action on the part of the latter in retaliation. The knowledge of this possibility would be likely to exert a restraining influence upon the country wishing to make such changes, and thus the freedom of action may prove to be more apparent than real.

As a practical corroboration of these arguments the experience of Germany and France is pointed out. France has been obliged to resort to tariff wars in a number of instances on account of the rigidity of her tariff system, and in the end was forced to yield on the vital point in her policy—the autonomous regulation of her rates, by reducing some of her duties below the minimum fixed by Parliament. Germany, on the contrary, has been uniformly successful.* Other countries had similar experience, and, therefore, found it more advantageous to adopt the German policy.

But, *comparaison n'est pas raison*, as the French say, and we cannot trust to analogy for a conclusive answer to our question. It is not so much the intrinsic merits of either system that determine its successful working as the conditions under which they are respectively applied. A knowledge of the politico-economic

*Germany, too, has had tariff wars with Russia and Spain; but in each case this was due, again, to the rigidity of the general and minimum tariff systems of the latter countries, and Russia, taught by the experience, has since abandoned the French system for the German.

apparatus which enables Germany to use the conventional tariff system with such telling effect is no less essential in forming one's judgment as to the merits of the conventional tariff system, than a familiarity with the system itself.

To begin with, Germany has a strong central government, whose control over legislation, and especially in initiating legislation, is practically as great as that of our standing committees in Congress. The government controls the appointment of the semi-official commission of representatives of the industrial, agricultural and commercial interests, which holds hearings and in other ways gathers information on which the tariff schedules are based. The tariff bill itself is drawn up by the government experts in the various executive departments, and is introduced in the Reichstag by the government at the time and under conditions which may seem most propitious from the government's point of view. While the tariff goes through these preparatory stages, the tariff and statistical experts in the government departments of the Treasury, Commerce and Foreign Affairs keep in close touch with the work of the semi-official commission as well as with the committees in the Reichstag. Their intimate knowledge not only of the needs of German commerce, but also of the strategic points in the commercial relations between Germany and the principal competing nations is continually drawn upon by the legislators. The tariff schedules are drawn up with infinite care; there is minute classification of commodities to prevent the inadvertent application of reduced rates which may be granted later by Germany to some foreign nation on a certain article, to another article imported from a third country through lack of sufficient differentiation between commodities in tariff classification.

After the tariff has been passed by the Reichstag the government appoints a commission, consisting of the department experts who have had most to do with the shaping of the tariff bill and who are best informed on the subjects to be dealt with in tariff negotiations with foreign countries. In the tariff negotiations with the United States which led to the adoption of the commercial agreement now in force, Germany was represented by ten experts from the following departments: the commercial, political and consular divisions of the Foreign Office, the Department of Commerce in the Imperial Ministry of the Interior; the Imperial Treasury Depart-

ment; the Prussian Ministry of Finance; Prussian Ministry of Agriculture; Prussian Ministry of Commerce. Most of the members of such commissions are picked men, generally economists and statisticians, whose regular duties consist in the study of the facts underlying the negotiations of tariff treaties. The personnel of the commissions, and their preparation for the treaty negotiations are matters planned well in advance, usually a matter of years of careful work.

In shaping the general or autonomous tariff the rates are purposely made higher than is thought actually necessary for purely protective purposes, with a view to their subsequent reduction in return for concessions from foreign countries. The extent to which they will be reduced is never indicated by the government in the course of the debates on the tariff in the Reichstag. That is a matter to be determined later by another body so far as it can be determined in advance of negotiations.

After the Reichstag has enacted the tariff, there is a second unofficial, yet none the less authoritative, parliament which takes up the work where the Reichstag has left it. It is the semi-official commission of thirty-two representatives of the agricultural, manufacturing and commercial interests to which reference has been made before. In preparation for the negotiation of commercial treaties the commission holds hearings behind closed doors, at which the representatives of different industries present their wishes, their needs at home, their grievances abroad; it formulates definite resolutions as to the extent to which concessions of rates at home are to be made and as to the minimum concessions that are to be accepted from the other side. When the treaty is finally negotiated on the lines laid down by this secret, semi-official business parliament, its opinion must be heard before the treaty is submitted to the Reichstag for ratification.

Such a procedure is not only absent, but could not be thought of in the United States. We might improve our equipment by strengthening the personnel of some of our government departments, by perfecting our methods of tariff-making in Congress, by closer co-ordination of the work done in the legislative, executive and business spheres. But we neither could nor would introduce certain fundamental changes which would be in conflict with the spirit of our democratic institutions.

Tariff revision in the United States is always preceded by considerable agitation and public discussion. Public opinion is crystallized and the members of Congress are expected to act in accordance with the wishes of their constituents. This would be practically impossible if we were to adopt the German or conventional tariff system, since under that system Congress would have to adopt only one set of duties, necessarily higher than those thought desirable, so as to leave ample margin for concessions in negotiating commercial treaties. The responsibility of the members of Congress to their constituents would thus be done away with, and the voters would be deprived of whatever direct control they may exercise now over tariff legislation. These objections would not apply to the general and minimum tariff system. To make this perfectly clear, let us illustrate the working of the two systems under American institutions by a concrete example. Let us assume for the sake of argument that the people of the United States had come to the conclusion that the interests of the country as a whole could best be served by a removal of the present duty on pig iron and that they elected a majority of the members of Congress pledged to that measure. If the United States adopted the French system of a general and minimum tariff, Congress would put pig iron on the free list under the minimum tariff and might retain the present duty on that article in the general tariff, or fix the general duty at some other rate. In the negotiations that would later ensue with foreign countries, the representatives of the United States would be at liberty to concede the free admission of pig iron, the one thing left to their discretion being the extent of the reciprocal concession to be accepted from the foreign country.

Under the German plan, Congress would adopt but one tariff and would have the alternative of either providing a duty on pig iron, trusting to the executive to remove that duty in the form of a concession to a foreign country, or of putting it on the free list in deference to the wishes of the people. In the latter case the end of the conventional tariff system would be defeated, as we would have no concession to offer to foreign countries in return for desired tariff reductions on our products in foreign markets. In the former case, however, it might easily happen that the will of the country would be disregarded, as its carrying out would be left to the doubtful exigencies of diplomatic negotiations.

Negotiations of a tariff treaty being in the nature of a bargain, it is natural for either side to assume the attitude of aiming to yield as little as possible and to obtain as much as it can. It might easily happen that, as a result of "successful" bargaining on the part of the delegates of the United States, only a partial reduction of duty on pig iron would be agreed upon, and the will of the majority of the people would be thus defeated by their own representatives—members of Congress and diplomatic delegates—each loyally trying to serve the best interests of the country.

In Germany and in some of the other European countries such a thing is less likely to happen, because they have managed to provide an extra-constitutional parliament, if it may be so called, which takes up the tariff where the Reichstag leaves it. By confining the Reichstag to the enactment of the general tariff only and leaving the control over the ultimate shaping of the conventional tariff to the Tariff Commission, the Germans have managed to secure all the advantages of the two dual tariff systems without incurring the disadvantages of either. The foreign nations with whom treaties are negotiated are left in the dark until the last moment as to the length Germany is ready to go in making concessions, so the strategic advantage of keeping one's cards to himself is retained to the end. At the same time the control of the people over the minimum rates, which is the chief advantage of the French system, is secured in Germany through the Tariff Commission, which consists of the representatives of all the economic interests of the country, save labor, whose interests, however, as producers are in that instance coincident with those of the manufacturers and as consumers with those of the commercial bodies.

As in Germany, so in the United States, reciprocal treaties affecting tariff rates would have to be submitted to Congress for ratification before they could become the law of the land. But in this respect also the difference of procedure is so striking as to seriously influence the efficiency of the same system in the two countries, and therefore deserves close study.

In Germany the treaty having gone through the preliminary stages described here, its ratification by the Reichstag is a foregone conclusion. There may be opposition to it from dissatisfied parties, but once the approval of a majority of the semi-official tariff commission has been secured, its ratification by the Reichstag is assured.

Of the numerous commercial treaties negotiated by the German government since the foundation of the empire, not one has ever failed of ratification in the Reichstag. This is not surprising if we consider that in Germany there is only one legislative chamber, that a simple majority of the votes cast is sufficient for the ratification of a treaty, and that such a thing as putting a treaty concluded by the government to sleep in the pigeon holes of a committee room is a thing unknown there.

Turning to the United States, we find a great contrast. If we adopted the conventional tariff system, the reciprocity treaties would have to be approved not only by the Senate but by the House, since they would contain new tariff rates which only the lower House has the power to initiate under the constitution. As the negotiation of a series of important treaties would be likely to consume considerable time, it could easily happen that by the time they reached Congress a new House might be elected to succeed the one which had enacted the general tariff. The latter being out of the way, the tariff issue would in all probability no longer figure as a political question, and the newly elected House would not, therefore, necessarily be bound by the tariff pledges which the constituents exacted from its predecessor. The reduced rates agreed upon in the treaties would virtually amount to a revision downward of a tariff but recently enacted, and its fate would be by no means certain. It would be a comparatively easy matter for a few congressmen representing different constituencies, standing together, to secure amendments to a number of rates; yet this would be tantamount to a rejection of the treaty, since it would require the reopening of negotiations with the foreign nations and a resubmittal of the newly concluded treaties to the parliaments of the respective countries.

Assuming that the treaty has successfully withstood the scrutiny and attacks of those who were hostile to it in the House, it would still be far from the goal, since under the constitution a treaty must receive two-thirds of the votes cast in the Senate in order to be ratified. It would therefore be easy for a determined minority of the Senate to defeat the treaty.

Under the general and minimum tariff system these difficulties would be greatly reduced, if not entirely eliminated. Congress having adopted a dual tariff in the first instance, the treaties negotiated would contain no new rates, and, therefore, would not require action

by the House. In the Senate, too, it would be easier to secure favorable action, since our own rates having been passed upon by Congress before, the only question to consider would be the concessions secured from the foreign countries. In view, however, of the precedent already established by Congress in connection with the McKinley tariff and followed in the Dingley tariff, it is conceivable that Congress might dispense with the submission of the treaties to the Senate. Under the Dingley tariff at present in force the President is authorized to conclude agreements with foreign countries by granting reduced rates on a small number of articles (brandies, wines, wine-lees, paintings and statuary), and to put them in effect without ratification by the Senate. Under this authority a number of commercial agreements have been concluded in the past ten years, and are still in effect without having been submitted for approval to the Senate. In conferring this authority upon the President, Congress has not parted with its rate-making power, since the reduced rates, to be subsequently granted to foreign nations on a reciprocal basis, are definitely fixed in the act. The same measure of authority could be conferred upon the executive under the proposed dual tariff system by authorizing the President to negotiate reciprocity treaties on the basis of reductions of duty not to exceed the limit set by the minimum tariff. This would insure the prompt application of the minimum tariff upon the conclusion of the negotiations of the reciprocal treaties.

Another serious difficulty would be encountered under the conventional tariff system in the United States through the application of the most-favored-nation principle to our relations with foreign countries. The most-favored-nation clause as interpreted and applied by European nations forms part and parcel of the conventional tariff system. It frequently happens that in negotiating a series of treaties with foreign nations, different rates will be agreed upon on the same products. In all those cases the countries which had accepted the higher rates get the benefit of the further concessions granted to some other nation without being required to offer additional concessions in return. In this manner all nations which have negotiated tariff treaties are treated on the same "most-favored-nation" footing, no matter what the original terms of the respective treaties were. This makes the operation of the conventional tariff system simple and fair.

Under what is known as the American interpretation of the most-favored-nation clause, however, such a procedure would be impossible. It has been the policy of the United States⁴ not to extend gratis to other nations concessions which are made to a foreign country in return for reciprocal advantages. Under this construction of the most-favored-nation clause, which narrows down its application only to gratuitous concessions granted to some foreign country, the conventional tariff system would become very unwieldy and complex. To illustrate: If in negotiating a treaty with France we granted a 20 per cent reduction of duty on gloves, and in a treaty subsequently concluded with Germany the reductions were made 30 per cent, we would have three different rates on the same article (the general rate, the rate to France, and the rate to Germany), and it might easily happen that on some articles we would have as many rates of duty as there were treaties concluded. In the case cited here as an illustration, France would find herself discriminated against unless we extended to her gloves the reduction granted to Germany. Under our interpretation of the most-favored-nation clause, however, we could not agree to that without reopening negotiations with France for additional concessions to compensate the United States for the reduced duty on gloves. This would be manifestly impracticable, as no nation would care to negotiate reciprocity treaties with the United States if it could not be assured in advance against unexpected discriminations as a result of subsequent reductions of duty by the United States in favor of other countries. To give them that assurance (which constitutes the underlying basis of all the tariff treaties in force among European nations) we would have to depart from the interpretation of the most-favored-nation clause hitherto adhered to by the United States. The only alternative would lie in the adoption of the general and minimum tariff system in which the minimum rates can be made uniform to all reciprocating nations by an act of Congress.

Conclusion

Summing the conclusions reached by the analysis of the two dual tariff systems, it can be said that the conventional system offers the facilities of superior strategic advantages in negotiating

⁴This policy has been more fully discussed by the writer in the *North American Review* for March, 1906.

reciprocity treaties, flexibility in mutual rate adjustment, and stability of rates during the life of the treaty. It requires, however, for its successful application the existence of an organization which combines in itself the representative character of a legislative body with the most intimate knowledge of things that comes to a board of experts, which can carry on its deliberations in executive session while enjoying the confidence of the people and speaking with an authoritative voice in the councils of the government.

It is most successful in countries in which the executive and the legislature are under one control, either because the majority of the legislative branch controls the executive, as in countries having a constitution like that of England or France, or because the executive controls the legislature more or less, as in Russia and Germany. It can be made to yield brilliant results where the forms of government and the administrative apparatus allow of a careful planning of a commercial policy, applied with deliberate precision and continuity of purpose, which comes of a stable administrative system undisturbed by political changes.

Finally, the conventional tariff system, to be practical and acceptable to the foreign nations as well as to the one which adopts it, must have as its underlying basis the unlimited application of the most-favored-nation principle, as understood and enforced among all the great commercial nations of the world, except the United States.

THE AMERICAN INTERPRETATION OF THE "MOST FAVORED NATION" CLAUSE

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The navigation legislation of the United States has been of varied and apparently contradictory character. Often, however, the laws passed have been inconsistent only in effect while prompted by the same general motives. A large portion of our early legislation as to tonnage dues, for example, was passed not to further the development of the American marine alone, nor to furnish revenue for the government, but with the object of forcing other countries to grant fair conditions of commerce. Our earliest agreements with foreign nations show a desire to give and accord the most liberal terms for international trade. Shortly after the ratification of the constitution, however, a severe policy of discrimination against foreign shipping was adopted resulting in the series of "countervailing" tonnage laws by which England and the United States piled restriction after restriction on colonial commerce, one aiming to force the other to open its West Indian markets, the other striving to keep all the trade under its antiquated system of navigation laws. All this was an attempt to force what we considered fair conditions of trade—an attempt wholly opposed in its effect to the general result which the United States sought to secure, the establishment of a free field for competition in the colonial markets. With the second third of the nineteenth century a more liberal policy saw the abolition of many of the navigation restrictions, and until the Civil War brought the re-enactment of tonnage dues there was a period in which comparatively little discriminatory tonnage legislation was passed. The necessity of an increased income during the Civil War brought the renewed levy of tonnage duties which, through a combination of reasons, continue even to-day, as will be shown.

Our commercial legislation, except as discriminations have been

made to favor our own merchants, has been uniformly in support of equal terms to all nations. There has been no granting of special unrequited advantages in trade to certain nations. We have endeavored to grant and secure equal opportunity in all markets to all nations.

Most favored nation agreements have been a factor in the treaty making of the United States from the beginning of our international relations. The very first of our commercial treaties, that of 1778, with France, though falling short of obtaining the unrestricted trade arrangements for which the negotiators argued, secured at least the guarantee that there should be no discrimination in French ports against the products of the United States as contrasted with other countries. The principle thus early introduced appears frequently in our subsequent treaties, and with us as with nations in general has become from the '70's on, a regular feature of international conventions.

Of late years our efforts to establish equal opportunity in international commerce have extended beyond the scope of treaty-making in the narrow sense. Our stand for the open door in the Far East is in fact but another manifestation of the same policy. It is the attempt to assure not only fair conditions in trade with the powers with whom we have direct treaty relations, but to guarantee that none of the great powers shall by agreements with the weaker nations of the Orient obtain any right which shall be prejudicial to the commercial interests of other nations similarly situated. The part the United States has played in the world politics of the Far East has been controlled by the old desire to prevent the monopolization of the trade of certain districts—to prevent a recrudescence of commercial policies similar to those which flourished in the eighteenth century and which the first half of the nineteenth century outgrew.

This policy of equal opportunity for all does not attempt in the least to limit the right of each nation to determine for itself its own fiscal policy, indeed, especially as it shows itself in the Far East, it works rather to guarantee to each nation the freedom to discriminate against foreigners. The end sought is rather to assure that to single nations no advantage shall be granted which shall not be granted to other nations upon the grant of equivalent favors. The "most favored nation" principle, in other words, does not at

all interfere with the reciprocity agreements. It allows the nations to contract for mutual concessions with as much freedom as ever.

Interpretation of the Clause in Reciprocity Treaties

In spite of the apparent simplicity of this principle, conflict has repeatedly arisen as to the proper interpretation of the "most favored nation" guarantees. The point which is the subject of contention usually narrows down to this: When nation A grants special terms to nation B as to the importation of certain articles in return for concessions by nation B on certain points; does that give all other nations with the "most favored nation" clause in their treaties the right to demand the same concessions upon their declaring their willingness to yield the same points yielded to nation B. Is it permissible, on the other hand, to maintain that the grant to nation B for the return of special concessions gives the other nations only the right to demand a similar grant when they have themselves made concessions which the treaty-making power of nation A shall consider the *equivalent* of those made by nation B? Suppose, for example, that the United States should grant specially low duties on French dry-goods in return for low duties on American agricultural machinery. Is it open to Germany to demand the same terms for her dry-goods under her "most favored nation" treaty upon the tender of the same terms on imports of American agricultural machinery, or may the United States contend that the grant of low duties to German dry-goods would be more than an equivalent return, and would therefore place Germany not on the general basis of the most favored nation (presumably in this case, France), but would make her an especially favored nation, thus, in fact, violating the very principle which the "most favored nation" clause was intended to guarantee? In other words, are reciprocity agreements to be considered as automatically extending to all nations with "most favored nation" clauses in their treaties, or must each be the subject of a special negotiation, a special *bargain* between the countries involved, except where the favors are freely granted?

In this controversy practically all the important nations of Europe have adopted the first view, the United States has from the beginning contended for the second in spite of the apparently con-

tradictory language of many of its treaties. The most important country which stands with the United States on this point is Japan.

The American Position

Though the conflict as to the interpretation of the meaning of the "most favored nation" clause did not arise in the United States till almost thirty years later, and then in connection with a subsequent treaty, the commercial treaty of 1788 with France states what has been the consistent American understanding. It declares that "the most Christian King and the United States engage mutually not to grant any particular favor to other nations in respect of commerce and navigation which shall not immediately become common to the other party who shall enjoy the same favor freely if the concession was freely made, or on allowing the same compensation if the concession was conditional." The words "same compensation," or the similar phrases which take their place in other treaties have been consistently interpreted by our government to mean "same in amount," or "equivalent," not "concessions on the same classes of articles."

What is the character of the concessions which will be considered an equivalent is to be left entirely to the treaty-making powers of the respective states. The mutual concessions are "to be honorably determined by the governments concerned." In binding itself to grant the "most favored nation" treatment a government does not bind itself to any definite program. It only pledges its honor that it will not adopt a conscious policy of discrimination. Special privileges in relation to customs on certain articles may be given, or the use of a port as a coaling station, the grant of a protectorate, in fact, anything within the scope of the treaty-making power may be the subject of the concession, and such special privilege granted for a special return is not to be considered as a discrimination which would justify other powers in complaining. They may not enjoy as a right or for a lesser payment a privilege for which other countries have given a valuable equivalent.

This uniform holding by the executive departments was further strengthened by a decision of the Supreme Court in 1887. The question involved was whether Denmark, under its "most favored nation" treaty with the United States, could claim that sugar from the Danish Island of St. Croix should be admitted to the United

States free of duty because a recent treaty had granted that privilege to Hawaiian sugar. The decision of the court is given as follows:

"Our conclusion is that the treaty with Denmark does not bind the United States to extend to that country without compensation privileges which they have conceded to the Hawaiian Islands in exchange for valuable concessions."¹

The last important statements concerning the meaning of this clause in its application to reciprocity treaties were made in the discussions arising under the Dingley Tariff Act of 1897. In explaining the position of the United States, Secretary Sherman, in a letter to Mr. Buchanan, Minister of the United States to Argentina, stated:

"It is clearly evident that the object sought in all the varying forms of expression is equality of international treatment, protection against the wilful preference of the commercial interests of one nation over another. But the allowance of the same privileges and the same sacrifice of revenue duties to a nation which makes no compensation that had been conceded to another nation for an adequate compensation instead of maintaining destroys that equality, which the 'most favored nation' clause was intended to secure. It concedes for nothing to one friendly nation that which the other gets only for a price." . . . "The right of the other nations to enjoy the same special concessions depends on their ability to offer an equivalent compensation. When they do this the 'favored nation clause' is rightly invoked."² Even when the second nation offers the same nominal concessions as given by the first it cannot secure identical treatment under the clause unless the treaty-making power considers the second sacrifice actually equal to the first.

This ground was further emphasized in the subsequent negotiations with Switzerland, Germany and other European powers. Under the authority of the Dingley act a reciprocity agreement between the United States and France was negotiated on May 30, 1898. On June 29th, Mr. Pioda, the Swiss minister at Washington, demanded that the same privileges be extended to Swiss products, on the ground that the terms of the Swiss treaty of 1850 expressly

¹*Bertram et al. vs. Robertson, Collectors of the Port of New York*, U. S. Sup. Ct. Report, Vol. 122.

²*Moore, International Law Digest*, Vol. V, pages 277-83.

covered the case. Article IX of that treaty stated that neither party should "impose any higher . . . duties upon . . . the . . . products of the other . . . than shall be payable upon the like articles being the produce of any other country."

It was found upon examining the correspondence attending the negotiation of the Swiss treaty that a consideration of the intent of the negotiators required that the United States adopt the Swiss view as to its meaning. At the same time the statement was made that the Swiss agreement must be considered "as henceforth constituting an exception to the otherwise uniform policy of the United States." The customs officials were therefore instructed to grant the same terms to Swiss products that had been granted to those of France. The United States insisted, however, that it might prove necessary for her to denounce the treaty under which she was obliged to adopt this agreement, since it was clearly in opposition to our well-established practice.

This yielding to the Swiss claims was at once followed by claims from other governments that they should be granted the same privilege which had been gratuitously granted to Switzerland. To accede to these requests would be equivalent to giving freely to all nations the concessions made to France. To avoid this consequence, notice was given to Switzerland that the United States would terminate its convention of 1850 so far as the articles in question were concerned at the end of one year. The denouncement of the articles finally took effect March 23, 1900.

The same French agreement which had brought this complication with Switzerland aroused the Germans to insist that they must be put upon the same basis by virtue of the treaty of the United States with Prussia of the date of 1828. Investigation of the terms of the convention showed, however, that Germany's grievances were based only upon the prevailing difference of opinion as to the application of the "most favored nation" clause to reciprocity treaties, and the claim was disallowed.

Application of the Clause to Laws of Congress

Besides the application of the "most favored nation" clause to treaties there are two other general classes of cases in which it has been invoked. These involve the application of our laws of

Congress to foreign trade. They may be grouped under: (1) geographical discriminations, and (2) retaliatory discriminations.

Geographical Discriminations.—On June 26, 1884, an act went into force "to remove certain burdens on the American merchant marine, and encourage the American foreign carrying trade." Section fourteen of this law provided a modification of the tonnage duties which had been re-enacted at the time of the Civil War. It granted to vessels entering the ports of the United States from ports of Central and South America a tonnage reduction of one-half of the amount charged other ships. Each such vessel was to pay three cents per ton—not to exceed fifteen cents in any one year, instead of six cents—not to exceed thirty cents in any one year, the rate charged to others. Belgium, Denmark, Germany, Italy, Portugal, Sweden and Norway protested against the enforcement of this law on the ground that it violated their treaty rights. The argument presented by Germany is fairly typical of the others. It was maintained that the answer made by the United States that the discrimination was purely geographical in character was unsatisfactory. If this principle was admitted it might make all "most favored nation" guarantees of no value. Geographical discrimination might be used to the extent of excluding—for example—all but Germany. Even if such exceptional laws could be justified in certain restricted cases where the countries were contiguous they could not be so when countries at a distance were involved. In effect, if not in wording, the act, it was claimed, violated the treaty agreements.

In 1886, with the protests still unsatisfied, another act was passed authorizing the President to extend the favorable tonnage regulations to all parts of South America. In addition the President was authorized to extend similar privileges to any other country upon the assurance that no higher duties were charged American vessels in the ports of such country. To this interpretation Germany again objected, because not only was the act of 1884 not repealed, but was extended to include South America.

"The original attitude assumed by the German government towards the old law has been in no wise changed by the new act. . . . As long as vessels from the ports of North and Central America pay but one-half of the tonnage duty that is levied upon vessels from German ports without being required to furnish proof that less than six cents is exacted from American

vessels in their ports, *the imperial government will be obliged to maintain its claim for similar usage.*³

The United States has not seen fit to modify its holdings as to its right to make geographical discriminations. Our policy is to abolish tonnage duties as against countries which do the same for us. In but few countries, however, is there an absence of tonnage duties of some sort, and consequently the law has had a negligible effect in practice.

Retaliatory Discriminations. Clauses providing for retaliations against unfair trade conditions introduced by other countries are to be found in the McKinley act of October 1, 1890, the tariff act of August 28, 1894, and the act of July 24, 1897. In all these cases the interpretation of the "most favored nation" clause has been involved.

Under the McKinley act it was provided that when the President should be satisfied that any country producing and exporting sugars, molasses, coffee, tea and hides, or any of such articles imposed duties on the products of the United States which were unfair in view of the free importation into the United States of the enumerated articles, he should suspend such free importation and place upon the articles certain duties. Under this power a proclamation was issued March 15, 1892, imposing duties on the specified articles when imported from Colombia. Colombia protested to the United States, but it was maintained that the law was no violation of the "most favored nation" guarantee since it applied "the same treatment to all countries whose tariffs are found by the President to be unequal and unreasonable."

One of the most interesting phases of the discussion of the "most favored nation" clause is that raised by the payment of bounties for exportation. Where a bounty is paid for the exportation of certain domestic products does that introduce a discrimination in trade which a foreign country may counteract by increasing its tariff on bounty-fed imports and still hold that it has not violated the "most favored nation" guarantee? As to this class of discriminations the division of authority is different from that as to the application of the clause to reciprocity treaties. England and the United States are the leading advocates supporting such retaliatory

³Report of Mr. Bayard, Secretary of State, to the President, Jan. 14, 1889, H. Ex. Doc. 74, 50th Congress, 2d session.

legislation. Russia, Germany, Austria-Hungary and the continental countries in general, stand opposed. This question has arisen under the tariff act of August 28, 1894, and the act of July 24, 1897. Against the first act the German ambassador protested October 12, 1894, claiming that the German export tax on sugar which the act in effect counteracted by the levy of an additional duty of one-tenth of a cent a pound, was a domestic measure purely, and therefore outside the consideration of the United States. To enforce the law would, he said, deny to Germany the "most favored nation" treatment. In this contention Mr. Gresham, the then Secretary of State, was disposed to agree.⁴ Mr. Olney, who succeeded to the position in the following month, November, took the opposite view, holding that "the export sugar bounty of one country might be counteracted by the import sugar bounty of another without causing any discrimination which could be deemed a violation of the 'most favored nation' clause."⁵

This is the position finally assumed by the United States. The act of July 24, 1897, further extended this principle by providing that any sugar imported from a country remitting the tax usually levied on all exported sugar, should be liable to an increased duty to the full amount of the refunded tax. Such repayment of taxes is, the courts have decided, only a disguised form of bounty.⁶

From what has preceded it is clearly seen that the "most favored nation" principle, as interpreted by the United States, has often been fruitful of misunderstanding if not of ill-will on the part of European countries. The treaty-making power of the United States, indeed, has often had to bear harsh criticism by foreign public opinion on other accounts also. In countries whose foreign offices can, by their own acts, bind the governments to treaty provisions without the concurrence of any other body, a constitutional requirement that after negotiation all treaties must be reviewed by the upper branch of the legislature is not easily understood. The part of the Senate in our foreign relations has not, indeed, been without serious criticism from many even in our own country. On the one hand it is asserted our government reserves to itself the privilege of retreating from a bad bargain, or one which does not

⁴Foreign Relations, 1894, 236.

⁵21 Op. Atty. Gen., 80-82.

⁶Downs vs. United States (1903), 187 U. S. 496.

meet popular favor after the other party to the agreement has practically bound itself to all the treaty provisions—only the formal exchange of ratifications being left to be accomplished. This, it is claimed, introduces an unequal element into the negotiations.

On the other hand, it is argued that reference to the Senate denies mobility to our treaty-making machinery. The necessity of review by this body, with the attendant clash of party interests and the ever-present possibility of filibustering, surrounds the negotiations with so many possibilities of defeat that our government is at a distinct disadvantage in comparison with others.

The "most favored nation" clause as an element in our treaties has in the same way been a subject of criticism. Like the treaty-making power in general, it has often provoked resentment in foreign courts. This is due to no lack of consistency on the part of our government, but to a non-appreciation of the extent to which the United States intends to bind itself in the negotiations in question.

The Advantage of the American Interpretation.

The meaning of the clause has the distinct gain of giving flexibility in one respect in spite of our cumbersome treaty-making machinery. When the government in designing reciprocity agreements or commercial legislation can act with the assurance that the measure will apply only to that portion of our foreign trade which it is intended to affect, it is much easier to fit the legislation to needs than it is when it must constantly be borne in mind that the identical concessions may be claimed by other countries to which they were not intended to apply. The complexity of modern trade relations makes the application of an invariable rule often a means of introducing rather than eliminating discriminations. Indeed, in many cases a reciprocity treaty might provide for mutual concessions which, while not amounting to discrimination such as would violate the most favored nation principle, would be entirely destroyed in value were similar rights granted to others.

Take for example the Hawaiian treaty of 1875, in which, among other things, it was agreed that that government should not during the life of the treaty lease any port, harbor or territory to any other power, or allow any other nation to obtain the privileges in customs duties which were granted to the United States. In

return the United States granted certain commercial privileges to Hawaii. This agreement, the United States could maintain under its interpretation, was no violation of the most favored nation guarantee but was an adjustment which, though it gave exclusive privileges, was one which was justified by our peculiar relation to the islands. If the European interpretation of the clause had been strictly applied, it would have necessitated the disregard of all the local conditions which counseled special arrangements, with the result that the advantages which each of the powers sought by the agreement would have been minimized, if not destroyed.

A similar illustration is afforded by the Cuban reciprocity treaty of 1903, granting to Cuban sugar a reduction of twenty per cent of the usual tariff in return for other concessions by Cuba. Cuba, it was further agreed, should continue during the life of the treaty to be the only country to whose sugar this advantage should be given. The peculiar political relations of the two countries, the United States held, justified its making such an agreement, notwithstanding its treaty guarantees to other nations. Not to allow the treaty-making power this freedom of action would indeed often hamper, if not destroy, its power to make the agreements demanded by actual conditions.

As applied both to treaty-making and legislation in general, the interpretation of the "most favored nation" clause adopted by the United States has the decided advantages of flexibility and certainty. It allows the adjustment of relations to varying conditions and thus avoids the adoption of uniform rules which in many cases would in fact amount to discrimination. It also avoids the uncertainty on the part of legislators and the courts which must of necessity be present when, due to the interlocking of the provisions of various treaties, it is not clear to what body of facts any law or treaty may apply.

THE MAXIMUM AND MINIMUM TARIFF

BY JOHN FRANKLIN CROWELL, PH.D.,
"The Wall Street Journal," New York City.

The declarations of the National Republican platform in favor of the maximum and minimum tariff to supersede the existing general tariff is pretty sure proof that, if the present administration be returned to power in the coming elections, revision will be made in keeping with the policy thus outlined. In the platform statement the minimum tariff is proposed as the normal and the maximum as the means of forcing more favorable terms upon nations whose tariffs discriminate against American goods. Presumably the standard of equal treatment is still to be found in the most-favored nation basis.

If the government actually carries out this program, it will mean that the United States is taking counsel in her tariff developments from her own imitators who have meanwhile gone much farther in the use of the tariff as an offensive and defensive instrument of trade. Our protective tariff which continental Europe first copied has in their hands been developed from a mere defensive measure to an offensive weapon. But in applying our protective tariff they discovered that the self-sufficiency of our natural resources and home market was lacking in their case. Hence the necessity of so developing their tariffs as to favor the imports of raw materials and to force open foreign markets for their manufactures. As the industrial development of the United States advanced, some such tariff reconstruction has become inevitable here.

How is this program likely to work, as applied to the United States? That will depend much on the skill, technical intelligence and commercial foresight with which the proposed maximum and minimum tariff is constructed. The construction of the schedules in turn will depend largely on the proportionate weight allowed to expert judgment, producing interests and the consuming public in dictating rates of import duties. Our existing tariff favors the producing interests most and the consuming interests least. Although constructed with skill, it lacks that capacity to encourage

foreign trade by being adjustable to conditions within limits prescribed in the schedule.

An approach to this adjustability was made in our reciprocity treaties and in the surtax on imports of bounty-fed sugar. Neither of them worked satisfactorily, probably because of the quite limited scope of their application. The reciprocity treaty with Canada worked against our interests. That with Spain (Cuba) worked in our favor. But the net outcome of the surtax war with Russia probably did the United States more harm in the exclusion of our manufactures by the maximum tariff imposed by Russia than our excess tax on sugar did to Russia.

Assuming that our maximum and minimum tariff schedules are to be constructed with as much insight and foresight as the French or the German tariffs, having thoroughly considered both trade relations and the treaties arising out of the new schedule, then the result will depend on the skill with which the treaties are negotiated and the system applied. If applied by a permanent commission composed of competent experts, not exclusively given to questions of customs administration, but quite as much to mastering the more general problems of our foreign trade, then there may be found in this system of tariffs the key to the baffling situation from which American foreign trade must sooner or later extricate itself.

If these requirements of a scientifically constructed and competently administered tariff are not met in some reasonable measure in the proposed maximum and minimum schedules, then the instrument which has proved so effective elsewhere may, for lack of these essentials, prove to be a bungling machine in the hands of those who have not yet risen to the height of its mastery. The first problem is to construct the right kind of a mechanism. The next one is to see that it does not work to the detriment of the domestic good, nor to the defeat of the desire for an expanding international trade.

Such an instrument the French statesmen intended to contract in their maximum and minimum tariff of 1892. They succeeded finally in accomplishing the two main objects—to give greater security and encouragement to domestic production, and to obtain readier access to foreign markets. The difference between minimum and maximum rates indicated the measure of concessions France was prepared to make for admission of her products to outside

markets. The maximum tariff was in force except wherever by agreement to favor French imports the minimum rate was granted. On cattle and meats, for instance, in which the United States was greatly interested, the tariff of 1892 had only one schedule. But ten years later, after it was seen that even Germany could import meats profitably over the rate of \$1.93 per kilo, the minimum rate on cattle was doubled and the maximum trebled. The rates on meats were advanced as below :

	Tariff of 1892.		Tariff of 1902-03.	
	Max.	Min.	Max.	Min.
Cattle	\$1.93	\$1.93	\$5.79	\$3.86
Mutton	6.17	6.17	9.63	6.75
Pork	2.32	2.32	7.72	5.40
Beef	4.82	4.82	9.65	6.75
Salt meats	4.82	4.82	9.65	5.79

This table illustrates the extent to which the tariffs were applied in the effort to preserve the entire domestic trade. At all hazards the home market was to be reserved in full. To that end the schedules were kept in the control of the legislature rather than entrusted to the treaty-making powers, whose range of concessions was defined by the two extremes of the schedule. By this method any unfavorable developments in trade movements could be dealt with from year to year. The tariff war with Switzerland, which would not accept even the French minimum as the equivalent of Swiss rates on French goods, lasted only seven months (1895)—long enough to result in France's giving Switzerland lower than minimum rates on twenty-nine commodities. (Ashley, *Modern Tariff History*, Ch. VI.) Thus out of the double schedule developed a sub-minimum schedule, as with Spain and Switzerland, and by Article IV of the Meline law an ultra-maximum or commercial war tariff was provided for. Consequently the so-called maximum and minimum tariff has by this time evolved into a fourfold schedule, any one or all of which may be changed at any session of the legislature, to say nothing of treaty changes or the varying interpretations of the tariff administration. This gives great instability to imports. The burden of the French system is defensive to the extent of prohibition of foreign competition. A secondary consideration is the expansion of exports. With the German tariff policy the former is assumed as secure and the latter is the main purpose.

This difference is significant of the tariff methods of the two nations.

This was only one side of the workings of the French system. The natural effort to escape the burdens of maximum rates is seen in the fact that within a year or two eighteen different countries, by treaty or convention, became entitled to the minimum tariff. Within the scheduled limits of double tariffs there are always wide possibilities of negotiation. Germany, seeing this opportunity, and fearing to hazard her export trade to legislation, threw the weight of her efforts into commercial treaties, by which, in the negotiations of 1890-92, a ten-year freedom from charge was, as a rule, secured, and a definite basis found for pushing her export interests.

Of the two nations, France and Germany, both have the double tariff, but the former has contrived her system to admit of readjustment in administration, thus retaining a large element of uncertainty in its working in trade, while Germany has largely eliminated this by the specific terms of commercial treaties. The years 1903-04 marked the end of the old and the beginning of the new tariff policy of Germany. The highly specialized tariff aimed at two objects, to place higher duties on all manufactures which had hitherto been imported in greater value than Germany exported, and to secure more favorable trade treaties in the place of the Caprivi treaties as their limit expired. (Review of World's Commerce, Washington, 1904, p. 72.)

On this basis Germany's foreign trade is now advancing, and apparently with increasing confidence toward the future. The French tariff has given a high measure of self-preservation to domestic industries in agriculture and manufacturing. But it has not really secured that degree of expansion in foreign trade which was anticipated. This is due only in part to the indefiniteness of her general treaties, but also in part to the character of her exports which go mainly to the well-developed nations, as compared with Germany, whose treaties with the smaller nations of Europe have given her special advantages.

The United States have now before them two historic experiments in tariffs based on the ideas of protection to home industries and exportation of a growing industrial surplus. Which of the two is better adapted to our purposes? The answer would seem to be this: That until the United States becomes fully enough aware

of the necessity for its manufactures to open and maintain foreign markets as a permanent part of national policy, the methods involved in the French system may be quite adequate for most of our needs. But once the industrial interests of the nation get a foretaste of the possibilities of a truly world market, we will have to resort to the much more specific and systematic methods of Germany. In fact, the more highly developed exporting industries, like the implement industries, the steel industries and the provision industries can even now have no other vital interest in the tariff than this one, by which their particular products may be given favorable treatment by foreign nations in permanent treaties.

The lack of permanence involved in the maximum and minimum schedules is one of the most serious objections to it. If, for instance, a domestic industry has been protected by a maximum tariff up to a given date, and then upon some foreign nation's compliance with conditions, it is given the minimum tariff, what is there to prevent the sacrifice of the domestic industry in question? Either the export concessions must be foregone or the home industry sacrificed to imports.

This illustrates some of the legislative and administrative difficulties in the way of adapting a maximum and minimum tariff system to our increasingly complex commercial life. If Congress stops with a mere adoption of the double schedule, but does not go farther and follow up the strategic advantage lying beyond, by negotiating treaties which favor the more progressive export interests, it will not be putting into practice the results of the world's best constructive experience in tariff policy.

TARIFF MAKING—FACT AND THEORY

By H. E. MILES,

Of the National Association of Manufacturers, Chairman Central Committee
on Expert Tariff Commission, Representing Fifteen National Organizations.

Although this paper is critical of the details of our tariff laws, it is written by a protectionist, a manufacturer, and a Republican. My belief in the principle of protection to American industries and labor is so implicit and deep-seated that I have no patience with ways of indirection, and am impelled to protest against the abuse of an economic principle upon the right use of which depends the welfare of millions of manufacturers and laborers.

To maintain political independence, which a nation must have if it is to exist at all, it is of greatest importance that the country should have economic independence. The former is greatly strengthened by the latter. In its effort to secure economic independence, a new country faces at the outset the handicap of the centuries in accumulated capital, experience, skill and general development of older nations. These older lands are themselves rapidly progressing. The new country must advance not merely as fast but faster if it is to catch up. It is a patriotic duty to secure economic independence.

It is, moreover, of inestimable money and intellectual advantage to a nation to diversify industries and to advance along many lines simultaneously, and this is especially so in a country where natural resources are so superior in quantity and quality as in the United States.

It is necessary in a republic where all men vote and are equal before the law, that a high standard of living be maintained, and that every worthy man should have income enough to live in comfort and to educate his children. To make this possible is a patriotic duty which the American people accept joyously.

The very strength and security of the protective tariff as a part of American polity often lead to abuse and corruption. The politician or the demagogue by portraying the dangers of free trade readily persuades his constituents to instruct him to champion

protection; and too often he uses his instructions as a cloak to cover his support of sordid interests and corrupt measures. The discussions of the tariff in political campaigns are debates as to the merits of free trade or protection instead of being a consideration of the methods by which protection should be applied. Not in our generation has even a Republican politician clearly outlined the principles that underlie rate making and justify with exactness particular rates. This was illustrated recently when I asked an important member of the Ways and Means Committee of the House upon what underlying principle of measurement the rates rest. He could conceive of none. Another member of the committee bit his lips and walked away. He is personally responsible for a schedule that costs the American people from one to two million dollars per week. The first member then said, "Why, Miles, if anyone down in my district wants anything, I get it for him, and I get all I can, and that's all there is to it." And so it is. Were that man to try to be specific, he could not justify a single schedule with any exactness. He is only a tariff horse trader, and resists any attempt to make him otherwise.

I went with certain data to the man probably most responsible of all for the present tariff situation. Said he, "Do you think we don't know. Take Senator ———, of ———, for instance. He held up the Dingley bill till we gave him and his pals a wholly unwarranted tariff on borax worth to them over \$5,000,000 in money. We had to have his vote!"

And so it is that Nevada borax, the most easily mined and the best deposits in the world, is "protected" against inferior foreign deposits, and that the retail price of borax in England is $2\frac{1}{2}$ cents a pound, while in the United States it is $2\frac{1}{2}$ cents plus the 5 cents duty, or $7\frac{1}{2}$ cents. This senator quickly sold the mines to an English syndicate for \$12,000,000. What he sold was incidentally the mines, and in principal part, the right to tax the American people, by act of Congress, 5 cents per pound, or 200 per cent on its borax over and above a fair price. The congressman who told me the story said also, "If it were in my power I'd so fix it that the present tariff could not be altered one jot or tittle in sixteen years." And a people of high moral ideas exalts this man and his many followers.

This man knows that when the Dingley bill was passed the cost of the manufacture of steel rails was \$12 per ton in Pittsburgh and \$16 in England; ocean freight was, and is, about \$3.50, making

\$19.50 the English cost delivered in New York, or 63 per cent above the Pittsburg cost. Imagine any congressman being so foolish or so daring as to attempt to explain why, with this 63 per cent of "natural protection," \$7.80 per ton, or 65 per cent, more protection was given by Congress. The granting of a tariff like this is a farming out of the taxing power for private considerations and to private interests.

Not long after the passage of this bill steel makers, guided by Wall Street promoters, put about one billion dollars of water into one corporation, and partly, at least, by the powers given to them in that tariff by Congress and the President, they have transfused the wealth of the people into that watered stock, in an amount not less than \$1,000,000 per week, until it has become a most substantial property. Lesser concerns have taken as much more. Sales prices have been doubled. Seeking relief from abroad, domestic users have found the government of the United States practically preventing relief through importations at one-fourth lower prices, although these lower prices were being gladly met by our makers in neutral markets, and very profitably.

Americans owning factories both in the United States and in Canada are buying Pittsburg steel cheaper for their Canadian factories, and are supplying foreign markets from Canadian factories formerly supplied from the United States. Leading political manipulators, sometimes called statesmen, and even protectionists, knowingly made all this possible in the name of protection to American industries and labor.

Or consider pig iron. The wage cost at the furnace of converting the raw materials there assembled into pig is, as stated by Mr. Schwab, 41.1 cents per ton of pig produced. Indeed, Mr. Schwab says that this covers, at the best furnace, also maintenance and overhead expenses. This seems almost incredible, but for more than a generation our steel men have taxed the belief of the manufacturing world by the actual facts of their accomplishments. Certainly pig, like all other steel and iron products, is produced cheaper in this country than anywhere else on earth. Mr. Gary fairly conceded this to a congressional committee, which, however, for some reason, failed to act upon the information.

In utter disregard of the principle of protection Congress, under the influence of John Dalzell and in the name of the principle thus

set at nought, put a duty of \$4.00 per ton on pig iron—a duty about ten times the total wage cost of production at the furnace. It is interesting to know that Chairman Payne, of the Ways and Means Committee, fearing popular opposition, fought Mr. Dalzell on the steel schedule for two weeks. There are limits to which even Mr. Payne goes reluctantly. A friend tells me Mr. Payne has said, "Why, logically, the steel people deserve no duty at all."

The next greatest industry after iron and steel is textiles, with an output, as I remember, of about \$800,000,000 per annum. The provisions of the textile schedule pass all belief. No industry more clearly deserves and requires protection. No industry has less need of devious and unfair rates and methods. The output of all the woolen mills of Massachusetts by a recent census, is of the yearly value of \$200,000,000. The wages in the mills total \$50,000,000, or 25 per cent of the output. Wages are there 60 per cent higher than in Great Britain which would make the British rate 16 per cent of the output on the basis of American values. The difference in wage cost is therefore 9 per cent. It would seem that twice this 9 per cent, or 18 per cent, would be moderately protective, and three times, or 27 per cent, almost liberally protective, with some allowance possibly, to the wool grower. But the rates run from 75 per cent to 165 per cent as measured by the money actually paid in at the customs houses. This latter figure, however, marks only the point of legislative prohibition, beyond which the rates mount to 200 per cent and upwards. There is neither honesty nor common sense in this schedule, unless the evidence of extreme manipulation on the part of the manufacturers is to be so considered.

Reference may also be made with propriety to pressed glass, which is made so cheaply in the United States that it is exported to places of foreign manufacture and there sold at better than American prices. The leaders in that industry were invited by Mr. McKinley to write their own schedules for the McKinley bill, "and to make them fair." This was, and is, quite the common practice. The committee of glass men, thus placed upon honor, put pressed glass on the free list. But it appeared in the law finally at 65 per cent duty. Evidently greedier men secured the change, and with the proof of their unfairness already before Congress.

The present political methods of tariff making offer special inducements and opportunities for the corrupt use of corporate

influence. Having millions of possible profits at stake in the fixing of a tariff rate, it is no wonder that the trusts and other special interests will spend large sums to influence elections and to control the actions of members of Congress. A congressman, who represents one of the most important manufacturing sections of the United States, said to me, "My people would, I believe, spend \$25,000,000 to keep the tariff right where it is." The special interests have been quite willing to make campaign contributions, and their aid has been given to whichever party is in power. As the late president of the Sugar Trust testifies, "We give large contributions to Republican campaign funds in Republican districts; to the Democrats in Democratic districts; and divide the funds equally between the two parties in doubtful districts." That numerous men prominent in public life have been corrupted by money spent to control the tariff is a fact of which there is conclusive proof.

Our tariff schedules and the methods followed in working them out constitute a national scandal. The tariff is a moral as well as an economic question, and a popular demand for a tariff that shall be honestly and equitably protective is greatly needed. A general public agitation to accomplish this end could hardly fail to meet the approval of the President of the United States. If Mr. Taft should be elected, he will surely welcome such a popular movement. He will not want to sign a dishonest tariff bill. The President, it should be remembered, shares with Congress the work of tariff making. This fact has not been pressed home strongly enough. The American people will not again look on complacently while a President signs a tariff bill with one eye shut and the other blinking.

The Way Out

Nothing is easier and simpler than the making of an honest, scientific and helpful tariff. I do not mean by this that it can be done in a night-time, nor with small care. It requires the ceaseless patient endeavor of high-minded men, expert in manufacturing processes, in international trade relations and in tariffs of this and other countries.

Four principles heretofore wholly disregarded must be constantly and thoroughly respected. These are:

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1. Protection to the consumer.
2. Domestic competition.
3. International costs and foreign competition.
4. Reciprocity, with maximum and minimum schedules.

Protection to the Consumer

The benefits of the tariff should accrue to all the people and not to a few politicians and manufacturers only; nor to the manufacturers and their dependents in Congress and in Wall Street. The money in the pockets of the public belongs to the individuals who comprise that public, and cannot lawfully be taken from those pockets except upon full and fair equivalent. The makers of the constitution were themselves so upright and clear minded upon this proposition they did not stop to consider that Congress could, much less that it would, rob the people under the taxing clause. They would have considered unconstitutional such abuses as now prevail. They justified the original bill, which gave average protection of only 5 per cent, upon the ground that it was of such direct benefit to every inhabitant as fully to recompense him. To-day our lawmakers ignore the rights of the consumers and the public in their service of the corporations.

The shoe is now on the other foot. The taxpayer is held to be the property, as it were, of the manufacturers and promoters. Instead of the manufacturer proving that he is entitled to a certain tariff, he is held to deserve the earth and all its increase. Consumers are not expected to assert either rights or interest in the charges made against them.

The public must not again permit the consumers' interests to be sacrificed as they were, for instance, in the present woolen and sugar schedules. The woolen manufacturer, upon submission of proof that imported wool was used in making exported yarn, may secure a drawback of the duties paid. The evidence shows that $1\frac{1}{2}$ pounds of wool are used in making a pound of yarn, but the tariff allowance is for $2\frac{1}{2}$ pounds of wool. When the tariff rates on sugar were being considered by the Ways and Means Committee the representatives of the Sugar Trust insisted upon certain rates, but declined to give the figures and other proofs showing the necessity for the rates. The result was that the committee "compromised" with the trust by giving it more than would have been

given had there been specific data at hand from which to make the rates. Who, it may fairly be asked, was in real control of tariff making that day, the people through their representatives, or the trusts with their friends on both sides of the committee table? The result has been sugar prices higher in the United States than in Great Britain, and a tariff rate exceeding the total cost of production, including the expense of raising the beets.

Competition

Competition was for many years considered a cure-all for tariff abuses. In competition Congress took refuge as against all criticism. Mr. Carnegie showed the reliance the public thus placed upon this when he said, in 1884, concerning steel:

We are creatures of the tariff. If ever the steel manufacturers attempt to control or have any general understanding among them, the tariff would not exist one session of Congress. The theory of protection is that home competition will soon reduce the price of the product so it will yield only the usual profit. Any understanding among us would simply be an attempt to defeat this. There never has been, or ever will be, such an understanding.

Mr. Carnegie did not foresee what would occur. Excessive, dishonest, and unreasonable rates made by Congress and the administration have been the principal inducement for the destruction of competition and the formation of trusts for fifty years, during which time a very great number of the tariff rates have been not protective in any sense, but have been prohibitive. Prohibition of imports is not protection.

Congress might almost as well decide that there shall be no competition as to give, as it now does, to shrewd American business men rates that are practically prohibitive of imports upon billions of dollars worth of the requirements of the people. In my own business, for instance, a protection of 15 per cent to 25 per cent is necessary, but Congress gave us, under an omnibus clause, 45 per cent. In doing this it permitted, if it did not invite us, to consolidate, and to add to our sales prices about 20 per cent and treble our profits, possibly quadruple them. At any rate the strong arm of the government will not permit of foreign competition, and so by our elimination of domestic competition, the people can be put wholly at our mercy to the extent of the excess duty.

And this is what has happened with most of the necessities of life. The government under both political parties has aided, abetted, and enriched trusts and trust makers insistently and outrageously.

Domestic competition has been so far eliminated that it is no longer to be reckoned with as of saving consequence.

International Costs and Foreign Competition

With home competition gone, this principle of international costs remains substantially our only salvation. It is a pleasure to note that this, as a living and vital principle, was first brought clearly and emphatically to the public mind by the American manufacturers themselves, through their leading organization, the National Association of Manufacturers, which for years has declared that the tariff should measure, in Mr. Taft's language, "Substantially the permanent differential between the cost of production in foreign countries and in the United States." This principle is itself one of competition, limiting the possible extent of trust extortion under tariff by the opportunities of foreign competition after the limits of a proper protection have been reached.

Protection does not mean that the prize-fighter shall be protected against the child, but rather the child against the prize-fighter. Our manufacturers are protected when they are given a tariff rate that measures this difference in international costs, and makes them the equal in matter of costs of the producers of the same articles in Europe and the Orient.

The Senate recently stated this principle in a resolution concerning the next revision and implied that revision would be based upon this principle, as it must be if fair. But with extreme regret I note that the sub-committee to which the question of revision is referred is composed of men who presumably represent in business life the over-protected interests.

The tariff committee of the House has made a display of getting exact information, but I know that they will not regard this principle or any other. They talk of using experts; but the men on these committees are the men discredited in recent years by the progressive wing of the Republican party, and finally at the Chicago convention. The data derived from experts will hardly be of great influence. This principle of the difference between the cost abroad and at home, as determining the rate was accepted in Chicago and

made an important part of the Republican platform. The ultra-protected interests, however, secured the addition of a clause which opens the door to excessive rates, as heretofore. The plank reads: "The true principle of protection is best maintained by the imposition of such duties as will equal the difference between the cost of production at home and abroad, *together with a reasonable profit to American industries.*"

The government does not guarantee profits to the wheat grower, good incomes to clerks, and clergymen, nor steady employment to labor. Is it to guarantee profits to trusts only? This clause would not help those who manufacture and sell under old-fashioned competition, for competition keeps their profits at the minimum, or destroys profits. But when trusts have only foreign competition to fear and the government gives them a duty which brings their costs on a parity with Europe and Asia it gives them full and fair protection, trusts though they are. When it adds to such protection a guarantee of profits also, it practices the worst sort of class favoritism, and in a quarter where it is least of all pardonable. This sort of "protection" is equal to a guarantee of stocks, bonds, and income, at the expense of the people.

The statement of principles in party platforms is not to be taken very seriously. Rather let us hope that Mr. Taft, who secured so much in the acknowledgment of the principle that tariff should be based on international cost differences, will now successfully assist the people to its definite and fair application. The National Association of Manufacturers has declared for the exact difference in costs, to be figured, however, with such reasonable and ample margin of safety against contingencies as ordinary prudence justifies.

The proper application of this principle to the rates will obliterate so much of the controversial and party differences that it will cause the tariff to be seen with new eyes. Tariff extortion will cease. The moral tone of politics and business will be immeasurably advanced. Home users will purchase at fair prices, and, for the most part, as cheaply as foreigners now buy from us. These equalizations of advantages will afford us world-wide trade opportunities of inestimable advantage to us at all times, and especially in dull times like the present.

Reciprocity

Fortunately, we are, at last, almost certain that the next tariff will be one of maximum and minimum schedules, leaving us no longer alone among the nations and unable to make trade agreements for the extension of commerce.

It was President McKinley's fondest hope as he took office to make his administration distinguished by reciprocity treaties, under the provisions of the present law. Great was the public disappointment when those who permitted these provisions to be incorporated in the law only as a vote-catching and specious sop to the public, prevented the fulfilment of his hope. Reciprocity should be made a prominent feature of our future tariff legislation. The importance of securing expanding foreign markets for our manufactures makes this imperative.

With an honestly made tariff that does not unduly burden the consumer, that permits of healthful foreign competition, that is as high, and only as high, as is required to place domestic and foreign producers on a parity, that provides for reciprocal trade agreements in the interest of a larger foreign trade, American industries will prosper by honest and equitable methods.

A PERMANENT TARIFF COMMISSION

BY HON. ALBERT J. BEVERIDGE,
United States Senator from Indiana.

At the beginning of the last session of Congress I introduced a bill for a permanent tariff commission. This bill seeks to create a commission of experts to find out the facts upon which Congress builds a tariff and to make a classification of articles, to which Congress can plainly and accurately fix customs duties. The commission itself is not allowed to fix duties or even to suggest any rate. The fixing of duties is left to Congress. The commission is kept strictly to the task of gathering facts and making clear classifications; the first is expert investigating work, the second expert clerical work. Neither is properly legislative work. In short, by this bill the commission is an assistant of Congress, a servant of Congress. Of course the commission ought also to recommend rates; but in the present mind of Congress I realized that it is impossible to get such a provision passed; so I left it out.

It is the business men who must do business under the tariff, and therefore the American tariff should be a business men's tariff and not a politician's tariff. What is wanted is a scientific tariff that will do justice to all interests and to all men, and not a log-rolling tariff which does less than justice to some interests in order that it may do more than justice to other interests. What is wanted is a tariff which will open to our products the markets of foreign countries, and above all we want a tariff builded upon facts instead of suppositions.

The appeal to the only power which really rules this country, American public opinion, has forced from those who thought that the Dingley law is sacred, and that time which changes all conditions changed nothing with reference to tariff rates, a concession that they were wrong and that the Dingley law at last must be replaced by a law which will be up to date.

Next year when the Dingley law is revised it will have been in force nearly twelve years, a longer time than any tariff has lasted

since the Civil War, a longer time than any tariff except two has lasted since the foundation of this republic.

Yet during the last twelve years, conditions have been revolutionized, and the industrial world has speeded forward more rapidly than in any fifty years in our history; and what is now demanded is that the tariff rates of twelve years ago shall be made up to date. Tariff rates that twelve years ago may have been just, changing conditions to-day have, in some instances, made unjust now. And our tariff classifications—they are a generation old and, by rulings of the board of appraisers and the courts on new and unclassified articles, have been made chaotic and unintelligent. Surely these classifications should be made modern, clear and understandable.

In considering the problem of our customs duties we must remember that the first element is *the facts*. The tariff should be fixed by facts; how to get at these facts is the first question in the whole tariff problem. If any man needs the facts more than another it is the protectionist like myself, because we cannot wisely protect any business unless we know the facts about that business. In a purely revenue tariff some duties can be fixed without any facts, such as duties on coffee, tea, chocolate, tropical fruits; and other food necessities; for such a revenue tariff must include all of these because they are consumed by all of our people, not produced by any of our people, and therefore would be the best revenue producers of all imports.

Still the facts are also necessary to the advocate of a purely revenue tariff; for even such a tariff must sweep through thousands of articles because our needed revenue is so great. So the man who is for a purely revenue tariff should know the facts, and a man who is for a protective tariff must know the facts.

How then can we best find out the facts upon which a tariff should be based? Common sense and experience answer the question. We should create a body of experts to find out these facts for us. These men should be the fittest men that can be found for this work; they should give their whole time to this work and lay before Congress the result of their investigations.

This plan is followed in business. Our largest industries keep experts at work all the time finding out the facts on which every branch of their trade depends. They send such men to all parts of

the country and world to learn about new resources, trade conditions and everything which helps them to do their business wisely.

Again, when a court of equity must hear a cause where large and varied accounts are to be examined, or where masses of testimony are to be taken and shifted, the chancellor appoints a special commission to find out these widespread and mixed-up facts and lay them before the court classified and summarized.

Conditions have compelled us to do the same thing in government. For example, Congress created the Bureau of Corporations for this purpose. After years of thorough work by this bureau no man in any party proposes to destroy it, or stop its labors. The same is equally true of the Bureau of Labor.

The Senate some months ago ordered an investigation by these experts of a certain great trust. When it was proposed to stop this investigation the Senate, after full debate, refused to do so. Again, a few months ago the President sent a commission to Goldfield, Nevada, to find out the facts about the strike at that place, so that he could know whether to keep the nation's soldiers there or not; and everybody agreed that this was wise and necessary.

Again, Congress created the Industrial Commission to find out certain facts. The report of this commission and those of the Interstate Commerce Commission resulted in the law for the Department of Commerce and Labor, the Bureau of Corporations, the Elkins law, the Rate law, the Immigration law, and most of the reform laws of the last six years.

Again, Congress created the Merchant Marine Commission to find out the facts about our shipping and carrying trade; and while nothing has been done, yet we have the facts. Whether upon these facts Congress may think it wise to do nothing or to do something, still Congress has no longer the excuse of ignorance.

Again, more than twenty years ago a law was passed establishing the Interstate Commerce Commission. During most of its existence its duties have been chiefly and still largely are the finding of facts which Congress could not find—facts about rates, discriminations, and the like. No man in any party now proposes to abolish that commission or curtail its powers.

But if we thought it wise for the President to send a commission to find out the facts in so simple a matter as a strike at Goldfield; if it is wise for a chancellor to appoint special examiners and

commissioners to find out and report the facts in single cases; if the Senate directs the Bureau of Corporations to find out the facts about the doings of a single trust in a single branch of its activities; if Congress creates a body of men to find out the facts about any great business which the President thinks should be investigated, and if its work is so wise that no man in any party asks that that work be stopped, how much more should we create a body of men, specially fitted for the work, to find out the facts about our tariff, which is more important, more intricate, more difficult than all these other things put together.

If we provide experts to find out the facts about things which have to do with comparatively few of the people, how much more should we provide experts to find out the facts about a thing which has to do with all of the people. If we take such measures to learn the truth about matters which are easy to learn, how much more should we take similar measures to find out the truth about a matter that is hard to learn.

If it be said that we have no right to know the facts about any business, the answer is that when that business asks for protective duties, we can fix those duties only by knowing the facts about that business. If we fix duties only by what that business says it wants, its managers would be fixing its own tariff instead of our fixing its tariff. Its managers would be making a tariff law for themselves instead of Congress making a tariff law for the people. Would it not seem that any business or any man who is against the plan of having experts find out the facts, does not want the facts found out.

Our tariff covers thousands of items. Whether duties should be placed upon these articles is a question of fact. The amount of the duty is an even harder question of fact. Heretofore we have forced committees of the House and Senate to find out these facts. These committees do not work at the task all of the time. They work at it only when the tariff is being revised, which is about once in every ten years. Even then these committees work for but a few months, and only part of the time during these few months. That part of the time during these few months is not given wholly to the task of finding out the facts, but also to the fixing of duties upon these facts, considering how each of these duties affects the others, how each of them taken alone and all of them taken together

affect our foreign and domestic trade, and all of the other things that must be thought of in making a tariff.

For example, the Committee on Ways and Means of the House that framed the Dingley bill reported that bill the nineteenth day of March, 1897, so they did all the above work in less than three months. The Committee on Finance of the Senate took this bill and reported it back on the 4th of May, 1897, so the Finance Committee did all its work in six weeks.

Again, the Committee on Ways and Means of the House that framed the McKinley bill reported that bill the sixteenth day of April, 1890, doing the work in less than five months. The Committee on Finance of the Senate took this bill and reported it back the seventeenth day of June, 1890, so the Finance Committee did all its work in two months.

Again, the Committee on Ways and Means that framed the Wilson bill reported that bill the 19th of December, 1893, so they did all the work in a little over four months. The Committee on Finance took this bill and reported it back the twentieth day of March, 1894, so the Finance Committee of the Senate did all this work in three months.

Compare this with the work of other Senate committees. On January 27, 1904, the Senate instructed the Committee on Privileges and Elections (one of the ablest committees of the Senate) to investigate the case of Reed Smoot, a Senator from Utah. Two years and six months later that committee made its report. Of these thirty months some members of the committee were at work all the time; and the full committee worked in actual session six solid months. The committee was aided by associations and persons who employed attorneys, detectives, etc., to look up facts and find witnesses.

If it took a Senate committee two years and six months working in some form all the time, and working steadily as a full committee six solid months to find out the facts in a single phase of the life of a single Senator, as was true in the Smoot case, how could a House committee, working part of the time for a few months and a Senate committee working part of the time for a few weeks, find out all the facts about all the articles in our tariff on which that committee fixes duties?

Is it not plain that these committees, no matter how able, wise

and industrious, were overworked? Is it not asking too much of any man to crowd so much labor into so short a space? Is it fair to those committees? Is it fair to Congress? Is it fair to the thousands of American industries which, in their business, are affected by the tariff? Is it fair to the 90,000,000 of the American people who, as consumers, are affected by a tariff?

But not only are these committees forced to do this vast work in this brief time, but the members of these committees must do other heavy work at the same time.

For example, the present committee of the Senate which must do the Senate work of tariff revision is presided over by Senator Aldrich, but he is also a member of the committees on Interstate Commerce, Rules, Cuban Relations, etc.

The other members of the Senate committee are:

The Senator from Maine (Mr. Hale), but he is also chairman of the Committee on Naval Affairs, a member of the committees on Appropriations, Philippines, Census, Canadian Relations, etc.

The Senator from New York (Mr. Platt), but he is also chairman of the Committee on Printing and a member of the committees on Naval Affairs, Interoceanic Canals, Civil Service, etc.

The Senator from Iowa (Mr. Allison), but he is also chairman of the Committee on Appropriations, etc.

The Senator from Michigan (Mr. Burrows), but he is also chairman of the Committee on Privileges and Elections, a member of the committees on Naval Affairs, Philippines, Post Offices and Post Roads, etc.

The Senator from North Dakota (Mr. Hansbrough), but he is also chairman of the Committee on Public Lands and a member of the committees on the District of Columbia, Agriculture and Forestry, Irrigation, Library, etc.

The Senator from Pennsylvania (Mr. Penrose), but he is also chairman of the Committee on Post Offices and Post Roads and a member of the committees on Commerce, Education and Labor, Immigration, Naval Affairs, etc.

The Senator from Illinois (Mr. Hopkins), but he is also chairman of the Committee on Enrolled Bills and a member of the committees on Commerce, Census and Interoceanic Canals.

The Senator from Virginia (Mr. Daniel), but he is also a

member of the committees on Appropriations, Education and Labor, and is chairman of the Committee on Public Health.

The Senator from Colorado (Mr. Teller), but he is also a member of the committees on Appropriations, Philippines, Pensions, Mines and Mining, Geological Survey, and is chairman of the Committee on Private Land Claims.

The Senator from Mississippi (Mr. Money), but he is also a member of the committees on Foreign Relations, Railroads, Agriculture and Forestry, etc.

The Senator from Texas (Mr. Bailey), but he is also a member of the committees on Rules, Census, Irrigation, etc.

The Senator from Florida (Mr. Taliaferro), but he is also a member of the committees on Military Affairs, Coast Defenses, Interoceanic Canals, Cuban Relations, Post Offices and Post Roads, Pensions, and the Census.

We must suppose that each of these Senators attends to the work of every committee on which he is a member—otherwise why is he a member of those other committees? The same is true of the members of the Ways and Means Committee of the House. But it may be said further that an examination of their occupations does not show that the Ways and Means Committee of the House or the Finance Committee of the Senate are especially fitted by their occupations and life-work to act as experts in finding out the facts or arranging the classifications.

A list of the members of the Ways and Means Committee of the House of Representatives who framed the Dingley bill, shows that every member of that committee at that time, with two exceptions, was a lawyer; one was an editor and one was a wood manufacturer.

Take the present Ways and Means Committee of the House. A mere reading of their names and their occupations in the Congressional Directory does not disclose that they are especially fitted by their life-work for economic investigation—all of them but two are lawyers, one is a lumberman and one has no occupation at all.

But this is not all. Each one of these Senators and Representatives is busy with politics in his own state. Some of them are leaders of their party. Some of them are lawyers in active practice. Some of them are managers of great business interests. But suppose that not a man of them did anything in politics, business,

or law. Suppose every one of them were to quit all his work in the Senate and in the House except the work of the Finance Committee of the Senate and of the Committee on Ways and Means of the House. Suppose, for example, the Senator from Iowa (Mr. Allison) were to leave his tremendous duties as chairman of the Appropriations Committee; suppose the Senator from Maine (Mr. Hale) were to leave his duties, so delicate and so complex, as chairman of the Naval Affairs Committee; suppose that every member of this committee were to abandon every duty to which he is assigned on the other committees of the Senate and were to devote his entire time for the few months during the short period when the tariff is revised to the sole work of finding out the facts concerning thousands and thousands of articles, of fixing the duties on those articles, of considering their effect on domestic and foreign trade, on the producer and consumer, and all the other things, would it not be difficult for them to do that?

These committees have hearings, sometimes private, sometimes public. At the public hearings the committee rooms overflow with representatives of various interests. The private hearings are equally congested. Both are rushed and confused. At these hearings there is no time, no opportunity, to go into any one subject thoroughly; to test the statements there made; to verify supposed facts.

If any interest wishes to get an unjust rate of duty, the hurry, confusion, incompleteness of these hearings give that interest the chance; and the still greater hurry and difficulty of fixing the duties themselves adds to that chance—all this, of course, without any member of the committee knowing or intending to aid such an interest in such a way.

The most honest and alert man could not possibly prevent or even know about incorrect statements; and the best of men might be excused from making a tariff rate which they did not intend to make and which, had they known all the facts, they never would have made.

The whole work of these committees is rushed. Business waits to know the new duties; and so the committees are driven at greatest possible speed. How easy in this necessary haste for certain interests to get unjust rates without the committee knowing that they are unjust, as well as for the committees themselves to make mistakes both of fact and judgment.

Direct and positive evidence of the impossibility of a committee of Congress finding out the facts in the brief hearings which were given to various interests is furnished by the Hon. Sereno E. Payne, chairman of the Ways and Means Committee of the House. In a work entitled "The Making of America," Mr. Payne contributed an article on "The Tariff and the Trusts." In this article he says:

* * * * *

But let us first consider the history of trusts in the United States.

* * * * *

Perhaps as good an example as we can find of the earlier form of a trust is in "The Sugar Refineries Company," which was formed in 1887. The facts in respect to this company have been pretty thoroughly investigated in an action brought by the people of the State of New York against the North River Sugar Refining Company, which was one of the original parties to the deed of trust. This case is reported in full in 121 New York Reports, page 582. There were seventeen sugar refining companies which entered into this combination. Some of these companies were co-partnerships, others were incorporated.

Then follows a long and detailed account of the Sugar Trust, and Mr. Payne goes on:

Here, then, was a trust, pure and absolute, formed by these seventeen companies. Each put its property, and endeavored to place its franchise, under the control of a board which was to hold the property as joint tenants and as trustees, but had the power of absolute control. It was a trust pure and simple. . . . The board of trustees, formed as we have seen—[and now we come to the making of the tariff upon this matter]—forget to carry out the original intention of the deed of trust. They did endeavor "generally to promote the interests of the parties hereto" with a vengeance, but they evidently did not keep the price of sugar as low as was consistent with reasonable profit. Notwithstanding the enormous watering of stock, dividends unheard of before were declared and paid upon the certificates issued by this board of trustees. As the product of this combination was a necessary of life required by every class of people, the excessive profits demanded soon called the attention of the people to the existence of this monopoly. Nobody objected to refining sugar in this country. Indeed, there was every reason why this business should be carried on exclusively in the United States in order to supply our markets. The object of forming the sugar schedule of the tariff in 1890, and again in 1897, was to learn, as nearly as possible, the exact cost of refining sugar, and then to adjust the tariff as to protect the labor interests, and no more. Investigation into this subject proved very irksome and troublesome. It was impossible to get at the exact facts, as the experts were not inclined to reveal the secrets of their business to the Committee on Ways and Means. Different statements were made as

to the cost of refining by different refineries, and then the best that could be done was a compromise rate for the differential duty between raw and refined sugar.

If it is said that, no matter how hard the work nevertheless these committees actually have done it in the past, one answer is suggested in the bills which these two committees reported when the tariff was last revised. I have carefully gone over the bill that Mr. Dingley reported to the House and which the House passed, also the bill which Mr. Aldrich reported to the Senate, and have tabulated the duties which these two bills fixed on the same articles. The duties fixed on most of them by the House bill differ widely from those fixed by the Senate bill, and in many cases the differences are so wide apart that they are startling.

For a few examples see table on following page.

In the cotton and woolen schedule, the steel and iron schedule, and the glass schedule the House and Senate differ on numerous items. Frequently the House fixed specific duties, the Senate ad valorem duties. Sometimes the House and Senate put articles on the "free list" and the conference committee put heavy duties on these very articles. Sometimes the conference committee disregarded the duties of both Senate and House and fixed different duties and on a different basis; yet the conference committee was in session only five days.

Could the Senate and House committees have had the same information? If so, why these wide differences? If they had the same facts, how could the divergence in their judgment as to what duties ought to be fixed on those facts have been so great as the examples I have given? Remember that the members of these committees were experienced, able, careful men, and a majority of each committee were high protectionists. What explanation can there be except that these two committees were differently informed, or insufficiently informed, or both? Had these facts been carefully gotten up by a body of expert men, specially fitted for that work and with plenty of time to do the work, could there have been these astounding differences?

But as serious a matter as finding out the facts, fundamental as that is, is the matter of classifications. Most of the classifications of the present law are over a generation old. Very few of them are modern and up to date. The reason of this is that when

DINGLEY BILL IN HOUSE AND SENATE.

Article.	Duty fixed by House Committee.	Duty fixed by Senate Committee.	Difference. Per cent.
Borax	2 cents per pound	5 cents per pound	150
Borate of lime	2 cents per pound	4 cents per pound	100
Boracic acid	3 cents per pound	5 cents per pound	66½
Fusel oil	¼ cent per pound	¼ cent per pound	100
Opium	\$6 per pound	\$8 per pound	33½
Nitrate of lead	2½ cents per pound	1½ cents per pound	66½
Phosphorus	20 cents per pound	10 cents per pound	100
Soda ash	½ cent per pound	¾ cent per pound	50
Sea moss	Free list	10 per cent.	100
Unmanufactured pumice stone	20 per cent.	10 per cent.	100
Spectacles, eyeglasses, etc., of a certain value, but not over 75 cents a dozen.	25 cents per dozen and 20 per cent.	40 cents per dozen and 20 per cent.	*60
Coral and spar	25 per cent.	50 per cent.	100
Railway fish plates or splice bars, iron or steel.	½ cent per pound	4 cents per pound	25
On certain knives	50 cents per dozen	Duty omitted .....	.....
On other knives	75 cents per dozen	Duty omitted .....	.....
Razors and razor blades of a certain value.	\$1 per dozen and 15 per cent.	50 cents per dozen and 15 per cent.	*100
On razors and razor blades of a different value.	\$1 per dozen and 15 per cent.	\$1.75 per dozen and 20 per cent.	*75
Scissors and shears of a certain value	50 cents per dozen and 15 per cent.	15 cents per dozen and 15 per cent.	†*333½
Files of a certain length	30 cents per dozen	50 cents per dozen	66½
Files of a different length	60 cents per dozen	\$1 per dozen	66½
Planed or finished lumber	50 cents per M feet	35 cents per M feet	42½
On the same, if planed on one side and tongued and grooved.	\$1 per M feet	70 cents per M feet	42½
Toothpicks	2 cents per M and 15 per cent.	1 cent per M and 15 per cent.	*100
Sugar cane, unmanufactured.	20 per cent.	10 per cent.	100
Saccharine	\$1 per pound and 15 per cent.	\$1 per pound and 10 per cent.	†*100
Chicory root	1 cent per pound	Free list .....	.....
Cocoa butter	6 cents per pound	3½ cents per pound	71½
Substitutes for coffee	1½ cents per pound	2 cents per pound	33½
Still wines	60 cents per gallon	30 cents per gallon	100
Certain cotton cloth	8 cents per square yard.	6½ cents per square yard.	23½
Stockings, hose etc., of a certain value.	50 cents per dozen pairs and 15 per cent.	60 cents per dozen pairs and 15 per cent.	*20
Tow of flax, retted	\$22.40 per ton	\$11.20 per ton	100
Floor matting	8 cents per square yard.	4 cents per square yard.	100
Carpets of a certain value	6 cents per square yard and 35 per cent.	10 cents per square yard and 35 per cent.	*66½

* In the specific part of the duty.

† And 33½ per cent in the specific part of the duty.

‡ And 50 per cent in the ad valorem part of the duty.

the committees come to revising the tariff in the great hurry I have shown has always existed and must exist, they were engrossed with the question of fixing duties, and so they took the language of the old classifications.

The result of this is that the importer very frequently does not know in what classification his import falls or what duty he pays. He must go first to the appraiser, who decides the question for him, and then, if dissatisfied, to the Board of Appraisers, and;

if still dissatisfied, to the courts. In the last ten years since this law was enacted there have been 300,000 such cases decided, and 600,000 begun.

These boards of appraisers and the courts, by deciding a classification to which any import belongs, are legislating every day, just as much as Congress legislates when it fixes the duties.

And worse than this, these contests have cost the government and the importers millions of dollars; worse than this, this fact has lost to the importing industries many more millions of dollars; and far worse than all this, the industries thus affected have been confused, disturbed, and uncertain; and far worse than all this, the whole cost must fall upon the entire body of the American people, from whom the revenue is raised to pay the expenses of the government.

I should not myself care, if the imports were merely used by people who prefer foreign goods to American goods, how much they paid; but remember that more than two-thirds of all of our imports are for the use of American manufacturers, who work these imports up into finished products and then sell them here or abroad.

For want of an up-to-date and scientific classification there have been the most amazing varieties of articles arbitrarily classified by boards and courts which in doing it are legislating in the most astonishing way. I will give a single illustration. Section 193 of the Dingley law reads as follows:

"Articles or wares not especially provided for in this act, composed wholly or in part of iron, steel, lead, copper, nickel, pewter, zinc, gold, silver, platinum, aluminum, or other metal, and whether partly or wholly manufactured, 45 per cent ad valorem."

Under that paragraph our customs officers have subjected to the 45 per cent ad valorem the following articles: Stoves, implements, electrical apparatus, andirons, gold and silver boxes, tin or brass boxes, brass ball chains, brass buckles, brass tubes for bedsteads, brass wire, brass sheets, brick trowels, britannia metal ware, bronze crosses for churches, bullets, bull's-eye lanterns, buttons with metal shanks, cabs, carriages, carts, buggies, trucks, railway cars, automobiles, candelabra, cannon, metal capsules, iron castings, cast-steel tools, chafing dishes, chisels, church bells, coal scuttles, curry-combs, compasses, nails, copper spikes, copper wire, cranks and shafts, carriers' knives, daguerreotype plates, drawing instruments, dress trimmings in which metal is the material of chief value, em-

bossing dies, engravers' tools, enameled portraits, metal eyelets, pistols and other firearms, fluoroscopes, and metal foil.

These are only a few instances taken from an alphabetical arrangement of the tariff decisions, and I only got through letter F. It can be easily imagined to what extent these instances can be multiplied by going through the entire alphabet for the decisions under that paragraph alone.

Will anyone contend that a simple article like nails or wire necessarily requires the same amount of protection as so complex a mechanism as a revolver or an electric dynamo?

Is there any logic in classing buttons and stoves together?

Should bullets and buggies, should automobiles and bull's-eye lanterns pay the same duty?

Are farm implements and gold boxes in the same class?

Is there any connection between carriages and dress trimmings?

Why classify railway cars and enameled portraits together?

Why should cannon for war and crosses for churches be put in the same class?

Yet all these are in the same classification and pay the same rates.

But more absurd than this is the fact that they are put in the same classification by the appraisers and the courts, passing on each article because Congress did not classify them at all.

And as outrageous as it is absurd is the fact that nobody knew what duties these articles would have to pay until the guess of the appraisers and the courts filled up the holes in the law.

Compared with the scientific, clear, accurate classification of the German schedules, for instance, our classifications are confused, uncertain, chaotic. The German tariff places each article exactly where it belongs, plainly specifies it and fixes the duty to be paid on it in a marginal column so that every nation who sells goods to German producers and every German producer that buys goods from other nations knows precisely the duty that must be paid on almost every article. Of course, cases arise in Germany where the classifications of some articles are open to dispute; but such cases are rare compared with like cases in our tariff. In short, the German classification reduces confusion and doubt to the minimum; our classification raises confusion and doubt to the maximum.

How did Germany make her tariff classifications so much

clearer, simpler, and more accurate than ours? By the common-sense plan of having an expert commission arrange these classifications. But that was only a part of the work of the German commission. Years ago Germany saw that only a body of experts could get the facts and arrange the schedules for her tariff; she saw that the only work which the Reichstag could do was the fixing of duties to the items, the facts about which the expert commission found out and laid before the Reichstag. So Germany selected for this work thirty of the best fitted men to be found in the empire.

This commission consulted more than 2,000 trade and industrial experts. It investigated every phase of every industry in the empire which might bear upon the tariff. It considered all these industries both separately and in relation to the others. It carefully studied the tariffs of other countries. It gave due weight to Germany's export trade. In short, everything that goes into the making of a tariff was worked out to the smallest detail by this German expert commission. It spent almost six years at this work. It would not be necessary for our commission to work so long. For the German commission framed the bill; the general government then sent it to each state forming the German Empire; those states took a year to consider it, and then it was returned and a copy of the revised bill sent to every productive industry in the empire. It may be said that the German commission worked perhaps two years and a half on the labor which I am proposing our commission shall do. They laid the results of this work before the Reichstag, and upon that work Germany built her present tariff.

Japan, France, and other up-to-date countries follow the same plan. They came to see, as we are coming to see, that in no other way could a tariff be builded with knowledge and wisdom. By this plan and by maximum and minimum tariff the foreign trade of Germany has passed every other country, comparatively speaking.

The German Empire, with an area nineteen times smaller than the United States, and much of its land poor and unproductive, and with a population less than two-thirds as great as ours, nevertheless exports more than one and a half billion dollars' worth of German products, more than two-thirds of which are manufactured articles, whereas we export \$1,717,953,000 worth of products, most of which are raw material.

Only \$460,000,000, or 27 per cent, of our exports are manu-

factured articles, and \$226,000,000, or 13 per cent, are semi-manufactured articles, and of these, nearly all are steel, copper and petroleum, requiring so little skilled labor that they may be called raw material.

So we see that German exports of manufactured products are far greater than our own, and if our superior advantages in population and resources are considered their lead is astonishing, humiliating. It is her foreign markets that give Germany her industrial prosperity. Indeed, it is her foreign markets which enable Germany to live. The time is here when foreign markets for our manufactures are becoming almost as important to American industry as they are to German industry. This one fact alone commands us to take the same up-to-date, scientific steps with our tariff that Germany has taken with her tariff.

Only two objections are made to a permanent tariff commission. The first is that it is the business of Congress to do this work; but this whole paper has been an attempt to show that Congress cannot do this work and has not done it. With the growth of our trade and the enormous increase in the number of items covered by our tariff, everybody who knows anything about this subject knows very well that Congress cannot do this work in the future.

The second objection is that we once had a tariff commission, but that it amounted to nothing. We are told that Congress paid no attention to it. The answer to this is that the exact reverse of these statements is the truth.

It is a fact of history that the first and only scientific classification of the tariff schedules ever made in America was made by the Tariff Commission of 1882, and that classification adopted by Congress remains, with a few changes, to this day. The present classification is in substance the classification made by the Commission of 1882, with some detailed additions and some detailed subtractions; but the classification itself as a scheme of a tariff is kept practically intact to this day.

Every substantive recommendation of that commission was the foundation of nearly all our tariff laws since, such as the customs court, the administrative laws of the tariff for the Treasury Department; and its classification was the first scientific classification ever made in this country.

The classifications recommended by that commission were

adopted as a scheme practically intact, and Congress even adopted the enormous majority of the duties recommended by the commission. This is merely a condensation into one sentence of what will be found by comparing the bill reported by the Commission of 1882 and the bill adopted by Congress in 1883.

And finally, a recent example—indeed, one immediately before our eyes—is absolutely unanswerable proof of the necessity of a tariff commission; proof, too, furnished by some of those who are the strongest foes of expert commission work in framing tariff laws. I refer, of course, to the present monetary commission. If it is necessary for a commission to investigate financial systems in order to devise a better one for ourselves, certainly the same process is even more necessary for the complicated, intricate and involved problems of a tariff. After all, the financial systems of the great commercial countries of the world are not profoundly dissimilar; they dovetail one into another without serious difficulty. But tariff systems do not adjust themselves so easily; indeed, they do not adjust themselves at all. They must be framed with precise and scientific reference to the tariff system of every other nation.

At the last session of Congress, when it was doubtful whether the new currency law could pass the Senate, I suggested to Senator Aldrich that he agree to a monetary commission to study the whole subject, and thus insure a thorough-going, business-like and scientific reform of our monetary system. Together with many other Republicans, I was not at all satisfied with the currency measure passed by the last session. It was at best a makeshift, as its principal advocates admitted—a mere temporary measure designed to tide the patient over a possibly critical period. It recognizes principles to which I, in common with many other Republican Senators, did not feel like committing myself without more exhaustive study, it refused to recognize other principles which some Senators did not feel like rejecting without more exhaustive examination.

In this state of uncertainty and with the plain fact before us that unless something further was done this measure would delay any sound and thorough-going financial reorganization, many of us hesitated to vote for it, but I thought that if a commission were appointed to explore the whole subject and report to Congress a comprehensive recommendation, any possible evil in this temporary

financial makeshift (the new currency law) would be minimized; while if this new currency law was not passed at all, there might be a danger of a brief recurrence of the recent panic. Possibly the new currency law will prove a success; but everybody admits that it is not a permanent solution of our financial problems.

To the suggestion of a currency commission, Senator Aldrich assented. Accordingly this was confirmed of record in open Senate; I asked Senator Aldrich in debate whether he would consent to such a commission, and he immediately replied with great frankness that he would and that he would expect such a commission to be authorized before Congress adjourned. Accordingly, such a commission was afterwards created.

This commission is a clinching proof that a tariff commission also should be appointed. Yet serving on this commission are several men bitterly hostile to a tariff commission—notably Senator Hale. Senator Hale is determined and aggressive in his opposition to a tariff commission; yet he not only favored the monetary commission, but consented to become a member of it; and not only that, but also is one of the most active, if not the most active member of the sub-committee of the commission now visiting Europe. Other examples might be given.

These men and many others like them frankly state their purpose to fight a tariff commission to the last ditch, yet here they are serving on a monetary commission. Some of this monetary commission are said to be at work upon our general tangle of financial legislation at home; others are in Europe, where they are supposed to be working night and day gathering information about the financial systems of the more advanced European countries. And yet every student knows that the facts necessary for the making of a tariff are harder to obtain and the various difficulties presented by customs laws far more numerous than those presented by a financial system, and equally delicate. Everybody knows, too, that all the financial laws of Canada and the various European countries are printed and available to any American student—certainly to any American commission that has the money to employ a translator. So are the debates, pamphlets, books and indeed the whole literature of the subject.

But in the case of the tariff, while the various tariff laws of other countries are at the disposal of the American student as much

as their financial laws, the facts relating to manufacture, labor, transportation and dozens of other matters equally important cannot possibly be obtained without expert investigation. So, if the monetary commission was advisable—and I heartily favor it—it is clear that the tariff commission is equally so—yes, far more so, to put the comparison very moderately indeed.

The truth is that the permanent tariff commission for which my bill provides is the most moderate legislation of this kind which Congress ought to think of passing. Scientifically speaking, a much more thorough commission with larger powers ought to be provided for. But a step at a time—until Congress is forced to a more sensible view of the business necessities of the American people we cannot hope for a really scientific, comprehensive tariff commission—one that would examine schedules and suggest rates; one that would constantly examine classifications and properly and scientifically modify them; and one whose recommendations as to rates and classifications Congress would follow after a business-like examination and without any playing of politics or partisan log-rolling. Indeed, it is a question whether much larger powers than these should not be given to a permanent commission. Three or four months after I introduced my tariff commission bill, Senator LaFollette introduced a bill which embraces all possible powers that a commission ought to have. There may be some question whether some of its provisions are practicable and advisable; but, on the whole, the LaFollette bill will repay the careful study of any one who is giving serious and modern-minded attention to this grave question.

I shall not go into the tariff question as such. Whether any man favors a purely revenue tariff, a straightout protective tariff, or any other kind of a tariff, Congress cannot do without this body of experts to help it with facts and classifications. Yet one brief word should be said at this moment about our tariff policy. We must have more foreign trade. We must open foreign markets to our live cattle, which are now kept out of those markets.

Our government should get the same advantages for American manufacturers in foreign trade that the German Government gets for German manufacturers in foreign trade.

American producers demand that the doors of other nations which are open to their rivals shall no longer be closed to them.

We cannot open these doors by a purely revenue tariff, because such a tariff gives other nations trade advantages with us without getting from those other nations any trade advantages in return.

We cannot open these doors by a purely protective tariff, because such a tariff gives other nations no trade advantages with us, but neither does it get any trade advantages from them.

We must have a system that gives us the same weapons that our rivals have, by which we can get for our producers the same favors that our rivals get for their producers.

We must have a double tariff, the first to apply to such nations as will not give our producers special favors in their markets, and the last to apply to such nations as will give our producers special favors in their markets.

When this demand was first made in Congress during the recent session we were met with arrogant refusal. Yet, within two months the statement was made on the floor of the House that when the tariff is revised it shall contain the maximum and minimum principle.¹

Every up-to-date nation, except Great Britain and ourselves, has now adopted the maximum and minimum tariff plan; and the agitation for this plan has begun in Great Britain.

¹The fight in the last session for modern tariff methods resulted in considerable progress, when we consider the fierce hostility to any change in our tariff procedure. We were told that there would be no revision of *any* kind—that position we overcame; that a double tariff would not be tolerated—that position we overcame; that no investigation during adjournment would be made—that also was abandoned and the Ways and Means Committee of the House was instructed to hold hearings; that experts would not be employed—but a compromise was accomplished by which the Finance Committee of the Senate is authorized and directed to employ experts from the executive departments of the government.

When my tariff commission bill was introduced, its best friends believed that nothing whatever could be accomplished; I, myself, felt that no progress could be made at the last session. All of us considered our efforts as the *beginning* of a long fight and nothing but a beginning. But public opinion crystallized so rapidly that Congress was forced to do something and the above points were yielded, reluctantly and one by one.

Great organizations of producers agitated the question all over the country. The National Association of Manufacturers—the greatest organization of manufacturers in the world—was especially effective. Indeed it may be said that this remarkable body of American business men head the fight among the people. The National Stock Breeders' Association, The National Grange, scores of commercial bodies all over the land heartily joined and worked tellingly for this plainly-needed and common-sense reform. It was the *first* time in our history that farmers and manufacturers, stock raisers and merchants ever united on any tariff proposition.

By it German producers are, comparatively speaking, selling more German goods abroad than any other nation.

Canada has just enacted a triple tariff; by this she has gotten a practical monopoly of her live stock in the markets of France.

Only Great Britain, Persia, Abyssinia and China now have purely revenue tariffs; only the United States and a few South American countries now have straightout protective tariffs.

Our rivals followed our plan of a single protective tariff and then logically developed that plan into a double protective plan. We must be as wise now as they were then; and just as they took the single protective plan from us, so now we must take the double protective plan from them. Our manufacturers, our cattlemen, our agriculturists, our miners, all our producing classes ask only the same advantages that their rivals have in the markets of the world. They demand no more than this; they will accept no less.

- The conclusion of the whole business is that we must have a permanent tariff commission; and that our tariffs should be builded upon the information, classifications and general advice which this commission gives to Congress; and that during our next tariff period we must have a maximum and minimum tariff. It is too bad that under our constitution the autonomous conventional tariff of Germany is a practical impossibility. Next to the German tariff trade system, the maximum and minimum tariff is the best.

IMPORT DUTIES: HOW THEY SHOULD BE LEVIED

By D. A. TOMPKINS,

President, D. A. Tompkins Company, Charlotte, N. C.; member of United States Industrial Commission, 1899-1900.

Under our form of government the principal sources of funds to cover the expenses of government are import duties, commonly referred to as the tariff. If this source of money should be cut off we would be very much embarrassed under the constitution to raise the necessary money to pay the expense of government. The amount of money necessary to be raised to cover the government expenses, which, of course, include the army and navy, has been an increasing one from the foundation of the government, but at the present time, generally speaking, and taking the average of the last few years, this sum aggregates something like a billion dollars a year, part of which is raised by internal revenue on whiskey and tobacco and otherwise, the bulk of which is obtained from the tariff on imported goods. It matters not whether the tariff is so laid as to protect certain domestic industries which need protection or whether it is laid upon products which are not raised in this country, the aggregate sum must remain about the same. Many people talk as though free trade would mean that we would pay no duties or less duties. This is not true, but it might mean that we would pay duties upon tea and coffee which are not raised in this country in preference to cotton yarns and cloths which are made in this country.

No party which is charged with conducting the United States Government could possibly have free trade. No party could materially diminish the quantity of money necessary to be raised annually to operate the government. The one question unsolved is whether the tariff shall be laid in a way to protect American industries, or whether it shall be laid upon articles we do not manufacture and thereby leave certain industries, both in agricultural and manufacturing lines, to the vicissitudes of competition with established business in Europe and elsewhere, and of cheap skilled labor in Europe and elsewhere. It would seem hardly probable that with a fair

understanding of the subject any one could offer to put American cotton yarns or American cotton cloths upon the free list and raise the money now derived from a tariff upon these articles by putting a tariff upon tea and coffee.

Yet there is very considerable dissatisfaction about the tariff. The basis of this dissatisfaction would seem to be that there is no systematic manner of ascertaining by judicial investigation, upon what articles and in what amounts the tariff should be laid. When the government was first founded the constitution provided that inventive genius should be stimulated in America by giving patents for new and valuable ideas. In the early days of the republic there was no patent office, no commissioner of patents, no force of experts to investigate the merits of a new invention. When Mr. Eli Whitney applied for his patent upon the cotton gin, President Washington handed the papers to the Attorney General to examine. Having been advised that the idea seemed a new and valuable one, the President directed his Secretary of State to prepare a patent, which was done. Three different executive officers of the government, to wit: President, Secretary of State and Attorney General, signed the patent. Let us suppose that the President of the United States should at the present time attempt to handle the patent subject and that he should require the Secretary of State and Attorney General to join him in investigating and issuing patents. It is evident that he would never do any other business except examine patents and that the three of them could not get through with 5 per cent of the business. There is now a commissioner of patents, charged with the organization of a force of expert men, whose duty it is to make a proper and full and careful examination of every application, and none doubts that in each separate case the conclusion arrived at is approximately correct. This is a subject upon which vested interests are naturally critical, but the patent office is so handled under the commission and by the experts that the loser is tolerably well satisfied in every case with the result and verdict.

In the early days of the republic the tariff was handled very much as the patent business was. Alexander Hamilton, who is the foster father of the protection idea in America, would make up a list and go over it with the President and Secretary of the Treasury and a few prominent members of Congress, and come very nearly getting a proper and satisfactory tariff list. We con-

tinue this unsystematic method even to the present day, while interests have multiplied many fold and the variety of industries has increased many fold. We are still expecting a small committee of Congress to make a tariff list in about a month. There are approximately 4,000 items on the tariff list. No rational man would possibly hold that a committee of Congress in a month or six months could handle these items with any degree of intelligence or that their conclusions would be approximately what would serve the best interest. Under the present system some of the trusts get many times more than they are entitled to, while some wholesome industries get less than they are entitled to. Times so change that certain items need revision every six months. Certain other items would not need revision in six years. Sweeping changes along the whole list at any time mean disturbance of the whole industrial condition of the country.

The proper system would seem to be more or less similar to that which has been developed for handling patents. If we had a semi-judicial commission with a corps of experts and a big official building to be called the tariff office like the patent office, and one subject at a time was put into the hands of the experts in the department suited to that item, then upon the basis of its findings, Congress might well make a tariff that would at the same time:

- (1) Raise the revenue necessary to run the government, and no more than was necessary.
- (2) Protect each industry, and no more than protect it.
- (3) Protect American labor, and no more than protect it.
- (4) By the reduction of duties remove the unnecessary and extravagant protection from articles manufactured by combinations and trusts.

Such a tribunal might recommend raising as well as lowering the tariff, and through such a tribunal corrections of the tariff list could be carried on at all times and would never upset the country by wholesale revision all at once.

There is an impression that the manufacturer gets all the benefit of protective duties. If duties are properly laid, no one gets more benefit than the farmer. Omitting the case where the article which he raises is protected, as, for example, in the case of sugar and wool, yet in every case the farmer gets indirect benefits which even exceed those derived by the factory itself. Fifteen years ago the

price of cotton throughout the South was five cents per pound. To-day the price exceeds ten cents per pound. The building of factories has contributed to this increase in the price of cotton more than any other one cause. The manner in which the factories have done this is as follows:

(1) They have drawn labor out of competition of cotton production into the factories.

(2) The factories have increased the consumption of cotton.

(3) The factories have made markets for perishable farm products.

Therefore the little protection given to cotton yarns and cotton cloths not only helps to support and maintain the manufacture of these in America, but goes directly to double the price of cotton.

Considering the necessity of raising the bulk of the expense money for the government by the tariff, the talk of free trade is more than idle. Clearly the idea of a prohibitive tariff would be foolish. If we should divide the American public into four parts according to opinion on this subject of free trade and tariff, not more than 10 per cent would stand for free trade. Probably 40 per cent would stand for a tariff for revenue, which incidentally protected American industries. Probably another 40 per cent would stand for tariff for protection which incidentally raised the necessary money to pay the government expenses. Probably 10 per cent would be for prohibitive tariff. In the face of this division, that 40 per cent which stands for revenue with incidental protection follow the lead of the 10 per cent free traders. That other 40 per cent which stands for protection which incidentally raises revenue follow the 10 per cent of prohibitive tariff leaders. In reality the difference between the two greater divisions is not so much as between "tweedledum" and "tweedledee," and yet the two sets of extremists keep these divided. With a semi-judicial commission this would disappear. The controversy by the public over the subject of tariff would disappear, because the results of the judicious investigation and intelligent study of each subject by experts would give results in each case that none of us could controvert.

The institution of slavery as it grew in the South dried up industrial interests. It gradually brought the South to a condition of agricultural activity handled by slave labor. In this situation, with no industrial interests to protect and no particular class of

labor to protect, the general belief in the idea of free trade grew. As industries are now developing again under free institutions and as the labor of the South is now again free and ambitious of better living, the South has a renewed interest in the subject of protection for its industries and its labor as well as a renewed interest in withdrawing tariff protection from combinations and trusts. What applies to the South with reference to protection, naturally applies to the rest of the United States. Every part of the country would be served if the tariff could be handled by a semi-judicial commission and in departments where experts could investigate each item and findings be made as satisfactory as those now made upon the subject of patents.

Without such scientific investigation to ascertain the facts, either by a government or some other competent tribunal, it is impossible to discuss the duties on textiles or any other items intelligently.

AN ARGUMENT FOR A PERMANENT EXPERT TARIFF COMMISSION

BY H. E. MILES,

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There are four thousand items in the tariff. It is impossible for Congressmen to post themselves on a hundredth part of the schedules. The work of drafting legislation must be done by others; as, in great measure, it has been in the past.

The inability of Congress to frame a proper tariff, even if so disposed, by present methods, and the inexperience of Congress, are little appreciated. A tariff bill is framed in the first instance by the majority members of the Ways and Means Committee of the House. It is expected to pass the House as submitted with little alteration. The minority members of the committee have little or nothing to do with it. For instance, in the making of the McKinley bill the minority members were present at the open hearings, but very early in the committee's actual constructive work, the minority members said to the majority members, "we will not embarrass you by our presence. We will, of course, make a minority report, and with that understanding we leave you to your work."

The present Ways and Means Committee which, if the Republicans are successful, will frame the next tariff, has upon it only two Republicans who have had any experience in the making of tariffs, Mr. Payne and Mr. John Dalzell. One member only of the minority, Mr. Cochran, ever served upon a tariff-making committee before, Mr. Cochran being one of the majority members who framed the Wilson bill.

Imagine, if you can, a tariff framed in a know-it-all-in-ninety-days session by a lot of novices under the direction of Mr. Payne, of New York, and Mr. Dalzell, of Pittsburg. Not one of the committee is a manufacturer. They know as little about manufacturing as manufacturers know about law, and yet Messrs. Payne, Dalzell, and a very few others who support them, insist that these men shall so legislate as to affect the prices, cost of living, and the pro-

fits and the savings of our ninety million inhabitants, and shall determine what shall be our success in foreign trade, where we meet Germany with its perfect tariff, based upon the findings of the German Tariff Commission of thirty-two experts, who gave five years of study to her interests, consulting in that period 2,000 other experts. As well give the throttle of a locomotive over to a child and expect the best consequence.

The Dingley Bill

The Dingley bill had among its majority members only four men, Messrs, Dingley, Payne, Dalzell and Hopkins, a newspaper editor and three attorneys, who had any previous experience, and Mr. Benton McMillan of the minority. That men so inexperienced should have hastily made a tariff for this nation "was worse than a blunder; it was a crime," They only made a great, blind jab at the task. They began wrong by taking classifications more than a generation old, very inapplicable to our time, having neither knowledge nor time to consider that important phase of the subject at all adequately, and consequently we have had 300,000 lawsuits on classifications and appraisals, nine-tenths of which might have been avoided.

The Wilson Bill

So of the Wilson bill. Only three members of the majority had had previous experience and that as minority members of the committee which framed the McKinley bill where, they had too delicate consideration for the majority even to be present when the work was done. These three men, with others wholly inexperienced, made the Wilson bill. There were of the minority members of the Wilson Committee, five Republicans of previous experience, whose experience was neither desired nor made use of.

The pitiable plight of the inexperienced Democrats who made this Wilson Bill, is in part illustrated by the following statement of Senator Vest, of Missouri:

I look back now upon what occurred during the debate and conference on the Wilson-Gorman bill as a nightmare, from the effects of which I have never recovered.

Before the conference ended three of the conferees had broken down under the constant strain to which we were subjected. Wilson was attacked with facial erysipelas, and in a few days afterwards I became a victim of

the same malady. We sat opposite to each other, our faces discolored by iodine and looking like two Indians painted for a war dance.

In a short time afterwards Senator Harris also went upon the sick list and told me subsequently that he dated the failure of his health from the effects of overwork and constant anxiety incident to the struggle over the Wilson-Gorman bill of 1894.

Senator Jones was also stricken down with angina pectoris and was compelled to go abroad in order to obtain relief. I have myself never been able to recover from the exhaustive labor to which I was subjected during that terrible struggle.

And as pitiable was the plight into which they put the whole country by the bill itself. The country was painted with iodine for years.

Bribery and ignorance worked together, impelling President Cleveland impulsively to declare the bill one "of perfidy and dishonor."

The McKinley Bill

Likewise as to the McKinley bill. Mr. McKinley himself was the only man of the majority with previous experience. A gentleman upon that committee, who was said by Mr. McKinley to have written more of the schedules than any other man, declares that they acted without information—could not get information, and simply did the best they could. Mr. McKinley's statement with reference to the glass schedule referred to in my preceding paper confirms this statement. He did not put the making of this and other schedules into the hands of the beneficiaries because he thought that the proper way, but because in the hurry, and lack of proper methods there was no other way.

Importance of Technical Counsel

The importance in a money sense of having an honest and scientific tariff cannot be overestimated. The total value of the yearly output of our factories is \$14,800,000,000. Much more than half of this is overcharged to the consumers not because of protection, but because of the graft in the tariff. The injury is cumulative. My own business pays \$50,000 per year of this graft. It must make the same profit on this \$50,000, as on the rest of its purchases. It therefore charges \$60,000, for the fifty expended. The jobber and the retailer each adds his profit, until the consumer

pays \$80,000 or more for the initial \$50,000 of graft. The total unnecessary cost of the tariff to American consumers cannot be estimated at less than \$500,000,000.00 per year. It has been estimated as more than double this figure.

Nothing but the unprecedented prosperity of the nation has made it possible for the people to submit to the situation without acute consciousness and extreme financial discomfiture. Nothing but its skilful indirection has kept the people from rising in protest and compelling correction. Few people can even discover from the tariff law what are the charges. Some great manufacturers cannot understandingly read their own rates. The man who made the original drafts of the McKinley and Dingley bills said: "The people won't stand for more than fifty per cent duties, and so I am making fifty per cent the apparent rate and by jokers and provisions not commonly understood, I am raising the rates far, far above that." And so he did. The law was made to cheat with.

Many of the people are aware of this. As time passes they find their best efforts avail nothing as compared with those of victorious trusts. Virtue no longer receives due reward. A sort of contempt attaches to it. The honest man is coming to look upon his own rectitude as if it were a sort of weakness. He wonders how he, too, can fool the people, and so bring into his pockets a miraculous stream of unearned dollars.

Great bankers agree that the half billion dollars of graft taken from the pockets of the consumers by the few ultra-protected interests is a great strain upon our financial resources. Those who get it, use it on the whole well. But things would be a thousand times better were these hundreds of millions of dollars left in the pockets of their rightful possessors, the consumers, to be used by them in the lesser and ordinary expenses of life.

The manufacturers of the country, tired of graft, and of ill-judged and hasty determinations, almost unanimously declare for the establishment of a non-partisan, semi-judicial, expert tariff commission, which shall study the tariff, schedule by schedule, and from time to time, embody their findings in the form of recommendations to Congress and the Executive. Every other great country has such a board or commission of experts. All our progressive statesmen know we must come to this. Only the politicians and their few but very rich and powerful over-protected sponsors and backers

oppose this plan. These opponents yield to the extent of conceding the necessity of expert determination, but they will not in fact yield any part of the graft-producing opportunities.

The fight to-day is for experts of independent standing, who, as the servants of Congress shall determine the costs of production here and abroad and lay the clear proof before Congress. The present leaders of Congress do not want this proof. They now refuse to have it. Their disposition is still as it was when a committee of manufacturers asked for 250 per cent duty. A New York firm in good standing declared 50 per cent ample. The committee to whom these statements were made was composed of lawyers. Had they been serving a client in a private case, or the public to whom they were oath-bound, they would have demanded proof, and secured it. But no, they did not want it. They gave rates running for most part from 100 to 150 per cent, and it is said one of the beneficiaries of the rates wrote the schedule as usual. It was written too in a way not easily understood by the uninitiated.

Congress has recently given to the country remarkable and conclusive evidence of the need of a permanent tariff commission. Of the 4,000 items in the present tariff few are simpler than those on wood pulp and print paper. By the power of the press the House against its will was compelled to consider these two items at the last session. It delegated to that task five members, who have spent some two months on these two items. We are told that they will be unable thoroughly to digest the evidence and report with understanding on these two items except as they devote many more weeks thereto. By instituting this inquiry, the House acknowledges that every rate should be based upon a thorough investigation. By the length of the inquiry it demonstrates the impossibility of the House itself, unassisted, determining rightly a fifth part of the schedules in a lifetime. The work must go undone or be delegated in great measure to a commission acting as the servant of Congress, and advisory also to the President, who, too, must act with understanding. The power of tariff making rests wholly in Congress. That power carries an obligation so great, that exhaustive investigation and a complete understanding should precede action.

The ascertainment of facts is a judicial and not a legislative function. Congress has recognized this in the recent establishment of a currency commission, and by many previous commissions.

There is no doubt of the wide-spread use of the commission plan or of its efficiency in handling questions which require careful consideration, and which bring into play quasi-legislative and judicial, as well as purely administrative judgments. Use is made of them in every department of our municipal, state and national service. In 1906 fifteen states supported 281 commissions. Recent state legislation has created more than 445. The multiplication of state commissions is one of the striking facts in our recent administrative development. Those commissions generally stand for efficiency and economy and for the methods of our business life. Many of the greatest national movements have found their origin in the work of these commissions. Two of national consequence have acted recently and most satisfactorily, these being the Anthracite Coal Commission and the Interstate Commerce Commission. President Roosevelt recommends to Congress the establishment of a permanent commission to study, and, under Congress, develop our internal waterways. The desirability of such a commission is immediately apparent. The Industrial Commission and others resulted in great improvement in the postal service, in the development of the Department of Commerce and Labor, in the rate, the Elkins and the immigration laws, in part to the anti-trust laws, etc. Alongside these, and of equal or greater moment, will soon be found a Tariff Commission.

No commission can make a tariff. That power rests exclusively in Congress. Congress as a whole is well intentioned, however, and we gladly believe that Congress will do rightly by the people, once the clear proof is put before it.

The present tariff situation cannot long endure. It will, however, be projected into the next law in part at least, and in as great measure as public sentiment permits. Every effort of daring and skilful manipulations in both parties will be made to yield as little as possible and to secure as much as may be obtained in excess of honest desert. May we hope that an aroused public opinion will do now and fully, that which will otherwise be done only in part. If the task be only begun it will needs be completed at a later date after the people have suffered a loss of billions of dollars, and a loss also of what is of priceless value—public honor, moral worth, and international esteem.

BOOK DEPARTMENT

NOTES.

American Political Science Association, Proceedings of Fourth Annual Meeting. Pp. 339. Price, \$2.00. Baltimore: Waverly Press, 1908.

Andrews, C. M. *British Committees, Commissions, and Councils of Trade and Plantations. 1622-1675.* Pp. 151. Baltimore: Johns Hopkins Press, 1908.

Arnold-Foster, H. O. *English Socialism of To-Day.* Pp. xix, 226. Price, \$1.25. New York: E. P. Dutton & Co., 1908.

The author has written this book for the purpose of refuting the theories of the socialists. In all of his chapters he fails to secure a definite conception of the principles underlying the modern socialist movement. He relies for his data upon the propaganda literature which is not essentially modern socialism. The book shows throughout a woeful lack of understanding of economic principles and is written in a prejudiced and bombastic style which is as unscientific and blatant as the most extreme socialist pamphlets which he criticises.

d'Avenel, V. G. *Aux Etats-Unis.* Pp. 253. Price, 3.50 fr. Paris: Armand Colin, 1908.

Bean, B. C. (Editor). *The Cost of Production.* Pp. 198. Price, \$3.00. Chicago: The System Company.

This is a technical book dealing with a modern, technical subject. In Part I, the author treats the science of costs, selling price, material, labor, depreciation and profit. The second part of the book is devoted to a series of papers by leading authorities presenting illustrative cost systems. While not of interest to the general reader, the book presents in a very definite form cost theories for business men.

Bec, F. *Les Pouvoirs du Maire en Matière d'Hygiène Publique de 1789 à 1902.* Pp. 233. Paris: A Rousseau, 1907.

Bentley, H. C. *Corporate Finance and Accounting.* Pp. xx, 525. Price, \$4.00. New York: The Roland Press, 1908.

Reserved for later notice.

Benton, E. J. *International Law and Diplomacy of the Spanish-American War.* Pp. 300. Price, \$1.50. Baltimore: Johns Hopkins Press, 1908.

This work is a history of the relations of the United States and Spain during the Cuban insurrection and the resulting Spanish-American war. Especial emphasis is given to the controverted points of international law which were passed upon during the conflict. Though the sources used do not include the Spanish material on the subject, the viewpoint throughout is judicial.

Some of the author's conclusions are, that the *reconcentrado* policy was a justifiable means of warfare; that the refusal of arbitration offered by Spain in the Maine case was a mistake; that McKinley did not exhaust the resources of diplomacy before turning the conduct of affairs over to Congress; and that the intervention of the United States on humanitarian grounds was not good practice in international law. The decisions of the courts in prize cases and allied subjects are reviewed in detail. The author is under heavy obligation to Le Fur, *La guerre Hispano-Américaine*, especially in the discussion of neutrality. There is no bibliography or discussion of authorities.

Blewett, G. J. *The Study of Nature and the Vision of God.* Pp. viii, 358. Price, \$1.75. Toronto: Wm. Briggs, 1907.

Butterfield, K. L. *Chapters in Rural Progress.* Pp. ix, 251. Chicago: University Press, 1908.

Calvert, A. F. *Toledo.* Pp. xxiii, 169; plates 511. Price, \$1.25. New York: John Lane Company, 1907.

This is the most pretentious of Mr. Calvert's volumes on Spain that has yet appeared. The best part of the book is the five hundred illustrations which cover practically every object of interest in the city. In some instances, however, the pictures lack distinctness, and some subjects are presented so often that the charge of padding cannot be avoided. The descriptive chapters, occupying about one-third of the book, are written in a style that is easy, but which often offends by wordiness. For the casual tourist, however, a handbook of this sort is of value. It gives a summary of the place of the city in the history, art and national life of Spain without burdening the narrative with too many facts. A chapter discussing the work of El Greco is included.

Chapman, S. J. *Work and Wages.* Part II. Pp. xxii, 494. Price, \$4.00. New York: Longmans, Green & Co., 1908.

Reserved for later notice.

Clarke, H. B. *Modern Spain.* Pp. xxvi, 510. Price, \$2.00. Cambridge: University Press.

The history of Spain in the nineteenth century is full of such rapid changes that any one-volume work must become, to a great extent, a chronicle of victories and defeats, insurrections, riots, provincial and party feuds, changes in succession and general national unrest. This is no exception. There are no chapters on the economic forces impelling the government or the people, and no discussion of social and political tendencies in the kingdom. The general political movements, however, are well outlined by an author who was qualified for the work as are few other English scholars.

The discussion of the internal affairs of the peninsula is more satisfactory than that of foreign affairs. The Carlist wars, the struggle for the abolition of the provincial rights, the church lands controversies and the military complications are clearly presented. The treatment of colonial politics is evidently drawn from materials representing but one side of the question, and in the discussion of the Spanish-American war, the peculiar spelling given to the names of American officers shows that American sources were not well cov-

ered. Several inaccuracies in statement of the territorial results of the war are also to be noted. A good bibliography concludes the book, but the works cited include no American discussions of the Spanish-American war.

Cook, F. A. *To the Top of the Continent.* Pp. xxi, 321. Price, \$2.50.

New York: Doubleday, Page & Co., 1908.

Reserved for later notice.

Curtin, J. *The Mongols.* Pp. xxvi, 426. Price, \$3.00. Boston: Little, Brown & Co., 1908.

Reserved for later notice.

Darwin, Leonard. *Municipal Ownership.* Pp. xv, 149. Price, \$1.25 net.

New York: E. P. Dutton & Co., 1907.

Well printed and bearing the characteristics of the English bound book, this short volume—four lectures delivered at Harvard in 1907—presents an attractive appearance. Disappointing, however, it proves to be after careful reading. Attempting to present the arguments, both for and against municipal ownership, it fails to command the respect of either advocates or opponents of increased functions for the municipality, nor does it deal with the subject in a sufficiently scholarly manner to raise it above the necessity of taking sides.

The question turns, in the opinion of the author, on whether a city can operate public utilities to better advantage by directly employing its labor than can a private company. Wherever an industry tends to become a monopoly, the case for municipal ownership is strong; where the civic authorities are weak or corruptible, or there are large numbers of men to be employed, or if free competition exists, private operation is preferable.

Dougherty, J. H. *The Electoral System of the United States.* Pp. 425.

Price, \$1.50. New York: G. P. Putnam's Sons.

Eltzbacher, Paul. *Anarchism.* Translated by S. T. Byington. Pp. xxi, 309.

Price, \$1.50. New York: Benj. R. Tucker, 1908.

The book represents an attempt to outline the doctrines of anarchism as they have been developed by its leading exponents. Three-fourths of the book are devoted to quotations from these authorities. The first few pages contain definitions of the terms, the state, the law and property. The theories of the leading anarchist writers are then reviewed. William Godwin based his theories on the general welfare. From the standpoint of the general welfare, he rejects law absolutely. In the absence of law, he must likewise reject the state. Proudhon bases his doctrines on justice. On a basis of justice, practically all statutory and constitutional law is rejected. Johann Kaspar Schmidt, commonly known as Max Stirner, founded his teaching on the supreme law of personal welfare. If each man looks to his own welfare, law is unnecessary, because in order to attain the highest personal welfare it is often necessary for man to transgress the law.

Bakunin looks upon the evolutionary principle of the progress of mankind from a lower to a higher stage as the fundamental law. In this evolution enacted law must of necessity disappear together with the state and

property. Kropotkin looks upon the progress from a less happy to the happiest existence as the fundamental thing. In the course of this progress one of the first steps will be the abandonment of enacted law, of the state and of private property. Tucker in his anarchistic writings considers self-interest as the fundamental law, and from this law he derives the law of equal liberty. From this standpoint there is no objection to law and property, but there is objection to the state. Tolstoi bases his doctrines on the supreme law of love. For love's sake Tolstoi rejects law as a means of developing people. He likewise rejects the state and the institution of property.

Following this summary of the doctrines of the leading anarchist writers, the author draws up several tables to illustrate the tendency of their doctrines and draws conclusions from them. The book is particularly timely owing to the present outcry of the general public against anarchism, and the failure of even the most learned to secure an adequate comprehension of anarchistic thought. The style is scientific in the extreme, heavy and uninteresting, yet to the student in search of the fundamental principles underlying the science of anarchy, the facts are presented in a masterful way, worthy of the highest commendation.

Fisher, S. G. *The Struggle for American Independence.* Pp. xxi, 1159. Price, \$4.00. Philadelphia: J. B. Lippincott Company, 1908.

Reserved for later notice.

Fitzner, R. *Deutsches Kolonial-Handbuch.* Pp. 331. Berlin: H. Paetel, 1907.

Fuller, R. H. *Government by the People.* Pp. 260. Price, \$1.00. New York: Macmillan Company, 1908.

Gauss, H. C. *The American Government.* Pp. xxiii, 871. Price, \$5.00. New York: L. R. Hammersley & Co., 1908.

This large volume of almost nine hundred pages brings together a large number of facts not available in the ordinary text, which, however, it does not displace. The chief emphasis is placed upon the duties and powers of federal officeholders. The detailed information presented is summarized from a large number of sources not readily available to the average student. There are serious limitations upon the usefulness of the book, because no sense of proportion is maintained. Eleven pages treat of the President, while twenty-eight are used in a tabulation showing the division under the congressional district system. The work is a storehouse of facts, which will be found valuable as a reference book but not available as a text.

Grimeshaw, Beatrice. *Fiji and Its Possibilities.* Pp. xiii, 315. Price, \$3.00. New York: Doubleday, Page & Co., 1907.

It took a good bit of pluck and nerve for a lone English woman to visit some of the remote parts of Fiji and other islands. The account is very lively and interesting. It is, however, diffuse and unsatisfactory. The author thinks there is a great future in Fijian agriculture and stock raising for the Englishman. This may be true, but the prospective settler will want more evidence than is here given. The book's chief interest, therefore, lies in its testimony

to what a woman can do if she will. There are many illustrations, most of which are of very little value.

Hart, A. B. *Manual of American History, Diplomacy and Government.* Pp. xv, 554. Cambridge: Harvard University Press, 1908.

This book is founded on several similar publications of the author. It aims to outline lectures and readings for courses for college students of the subjects indicated in the title. Three detailed courses of ninety lectures each are outlined on the subjects of American history, diplomacy and government. Three shorter courses of thirty lectures each on the same subjects follow. These outlines are supplemented by suggestions for class topics, term reports, etc., and by a valuable chapter on methods and materials, giving directions for the use of books and preparation of reports. Though intended as a guide and aid in some specific courses in Harvard University, the arrangement of the volume, and the general character of the material to which reference is made, make the volume of value to the general student.

Harwood, W. S. *The New Earth.* Pp. xii, 378. Price, \$1.75. New York: Macmillan Company, 1907.

This book is the better of two recent efforts to present to the general public the results of the recent application of science to agriculture. This is a very large field, as none of the industries is related to so many sciences; in none of them has the dependence upon science been so late in its discovery, and in none has the development of science been so rapid. Mr. Harwood attempts to present these recent developments in their economic aspects, so that we may understand the change that is going on around us.

The book represents a rather wide consulting of the very numerous materials that are now pouring forth. In many cases they are quoted at great length, so that the book is almost as largely a selection of the works of others as it is the work of the author. For the calm and unpoetic, the author's efforts at popularizing and style are at times rather distasteful, but it is the best book that has yet appeared on the subject, and one which can be read with great profit by anyone who wishes to keep fully abreast of the great movements now going on in the greatest industry the world now possesses or ever has possessed.

Herbertson, A. J. and F. D. *The Oxford Geographies.* Vols. I and III. Pp. viii, 512. Price, 4s. Oxford: Clarendon Press.

Dr. A. J. Herbertson, assisted by F. D. Herbertson, of Oxford, has written a series of geographies for the schools. They have borrowed something from, or conceived an idea similar to, the prodigiously successful series of geographical readers written by Mr. Frank Carpenter, which sold a million copies before the last one was done. Dr. Herbertson has a preliminary, a junior and senior geography. In the first one he takes imaginary journeys up and down, across and around the continents, using all sorts of appropriate conveyances, and pointing out to his imaginary youthful audience the things he should see. It makes some of us wish we could begin geography again. In the last of the series, the senior geography, which has recently

appeared, he has divided the world up into what he calls natural regions. These he uses in contrast to the irrational method of thoroughly treating political divisions which may have no economic difference from those adjoining.

This is a distinct advance over the old method, but it is not followed rigorously all the way through the book—compromises being made with political geography and history and through pressure of space unexplained statement of fact is at times rather too prominent. The writing of geography texts is a matter of such forced compromise that it is a question if any method can be settled upon to the satisfaction of all parties.

HILL, F. T. *Decisive Battles of the Law*. Pp. viii, 268. Price, \$2.25. New York: Harper & Brothers, 1907.

Reserved for later notice.

HINDS, W. A. *American Communities and Coöperative Colonies*. Pp. 608. Price, \$1.50. Chicago: Charles H. Kerr & Co., 1908.

This standard work, which was first published in 1878, now appears in enlarged form, thoroughly revised and brought down to the year 1907. It includes all the well-known experiments, such as the Shaker colonies, Owen's communities, Brook Farm and the various Fourieristic phalanxes, Cabet's Icaria and the Oneida Community, in addition to a multitude of less known settlements, to say nothing of such contemporary organizations as the Theosophist Colony at Point Loma, the Single Tax Society at Fairhope, Alabama, the Ruskin Commonwealths, Upton Sinclair's Helicon Home Colony and the Straight Edge. Probably the most surprising feature of a book like this, to most readers, is the disclosure of the large number of radical social experiments that are being carried on at the present time.

As a follower of John Humphrey Noyes, Mr. Hinds naturally believes in some form of religious communism, conjoined with mutual criticism, after the fashion of the Oneida Community. Nevertheless, he is scrupulously fair to all communists and their opponents, and he records with entire honesty the modest successes of the various communistic societies and their numerous discouraging failures. The book contains little attempt at philosophizing. It is chiefly a straightforward account of the attempts at social betterment made by communists and social radicals. Such a record leaves the reader with a renewed impression of the importance of religious enthusiasm and fanaticism as motives to communistic activity. It fills him with admiration for the enthusiasm, the lofty motives and the unselfish endeavor that have marked the most of such attempts—admiration not unmixed with sadness at the selfishness and self-seeking that ultimately creep in to overthrow them. Yet, despite failures, men will undoubtedly continue to experiment with the alluring form of social organization so long as they seek a concrete expression of the sentiment of brotherhood. All such experiments will add their bit to the world's store of experience and wisdom; and, therefore, they deserve permanent record. Not the least valuable feature of Mr. Hinds' book is the bibliography at the end of each chapter.

Hirth, F. *The Ancient History of China to the End of the Ch'ou Dynasty.* Pp. xiii, 383. Price, \$2.50. New York: Columbia University Press, 1908.

Hunt, G. (Editor.) *The Journal of the Constitutional Convention of 1787, as reported by James Madison.* Two volumes. Pp. xvii, 853. Price, \$3.00. New York: Putnam's Sons, 1908.

Reserved for later notice.

Jacobstein, Meyer. *The Tobacco Industry in the United States.* Pp. 208. Price, \$1.50. New York: Columbia University Press, 1907.

This volume, by Dr. Meyer Jacobstein, is a very carefully prepared monograph giving the development and present situation of the American tobacco industry. Dr. Jacobstein knows his subject and the monograph gives evidence of much careful work. He deals in a dispassionate way, yet clearly, with the facts of the development of the tobacco trust which has of late been the subject of such heated presentation and litigation. The book covers the whole field from the first plantations in the colonies to the foreign trade and the tobacco tax. It is rather unfortunate that a book of such merit should appear in the clumsy form of uncut pages, requiring as much time to get at the book as to read one of its clearly put chapters.

Johnson, A. S. *Introductory Economics.* Pp. 338. New York: School of Liberal Arts and Sciences, 1907.

By those economists who hold the productivity theory of distribution, this book can merit naught but praise. It is a clear, logical presentation written in terse English. The influence of his former teacher, Professor Clark, is apparent throughout the author's pages, especially in those chapters dealing with the theories of wages and interest. Like Clark, he sees in monopoly an element ever interfering with the desirable free play of competition as a regulator of interest, wages and profits. He re-echoes the customary economic formula, "Wages under competitive conditions are determined by the marginal productivity of labor."

To that growing group of economists, however, who have broken from the Clark idea of marginal productivity and adhere to the price or exchange theory, the book offers little of value. In the main, Dr. Johnson has written a series of studies illustrating the operation of the two economic principles of diminishing utility and diminishing returns with some additional chapters on general economic subjects such as money, financial institutions, international trade, etc. The volume does not claim to be a general text-book on the whole field of economics. Its aim is rather to reach the lay public than the student body, for the author believes that, "in a democratic state economic science should be for the many, not for the few."

Kellogg, V. L. *Darwinism To-Day.* Pp. xii, 403. Price, \$2.00. New York: Henry Holt & Co., 1907.

In this volume Professor Kellogg, of Leland Stanford, Jr. University, carefully reviews the biological studies of the last fifty years to see what effect they have had in destroying or changing the fundamental conceptions of

Darwin. He thus puts in brief and accessible form for the general reader all the important evidence gotten by the various students and the theories suggested thereby. The volume at once becomes valuable as a source book.

After outlining Darwinism, the attacks upon Darwin's positions are taken up in detail. This is followed by a defence accompanied by mention of alternative theories. The final conclusion reached is, that while obviously many of Darwin's ideas were erroneous, that Darwinism is far from dead. It is probably necessary to accept Weissmann's theory that acquired characters are not inherited. Natural selection remains, however, not the cause of changes in species, but the final controlling force in evolution. The opponents of natural selection have failed to displace it. Darwinism does not explain variation in indifferent characters, of which there are many. Here is a great field for research. The cause of modifications may be simpler than we think.

The book is valuable. Unless the reader knows something of biology it will be hard reading, for technical terms are constantly used.

Koebel, W. H. *Modern Argentina*. Pp. xv, 380. London: Francis Griffiths, 1907.

Ladd, G. T. *In Corea with Marquis Ito*. Pp. x, 477. Price, \$2.50. New York: Charles Scribner's Sons, 1908.

Reserved for later notice.

Lowell, A. L. *The Government of England*. Two volumes. Pp. xxii, 1133. Price, \$4.00. New York: Macmillan Company, 1908.

Reserved for later notice.

Maclear, Anne B. *Early New England Towns*. Pp. 181. Price, \$1.50. New York: Columbia University Press, 1908.

Mallock, W. H. *A Critical Examination of Socialism*. Pp. vi, 302. Price, \$2.00. New York: Harper & Bros., 1907.

Mr. Mallock has profited somewhat from the castigation he received in the course of the American lectures. It has at least led him to read Walker; and Walker a quarter of a century ago said everything that is said in Mr. Mallock's book, only far more sanely than the worthy Englishman has done. This volume, however, is a better piece of work than the lectures gave reason to expect. The point of view, of course, is wholly aristocratic. The world is divided into two classes, laborers and men of "directive ability;" they are born so, and "there's an end on't." Great men produce all the changes in human affairs. Labor is the mere mechanical power of the human machine. Laborers, not being great, possess only this mechanical power and therefore must submit themselves, if they would be happy, to the God-given "directive ability" of their betters. It all reads quite like Aristotle on slavery.

A socialist state, argues Mr. Mallock, could not select these men of ability; and even if it could select them, it could not induce them to work if it reduced their reward below its present amount. Very likely, and if socialism cannot overcome these difficulties it will fail. And yet progressive government enterprises are becoming discouragingly common. Perhaps, as

Mr. Mallock declares, socialists are men "incapable of comprehending accurately the concrete facts of life," and perhaps that is why they say that municipal tramways are a success in England, that Russian railways pay big dividends, that the Swedish telephone puts ours to shame, and that New Zealand is reasonably prosperous, in spite of radical land laws, compulsory arbitration, old age pensions and such foolishness.

But "directive ability" is the phrase that justifies present society *in toto*. It includes the work of people no less different than John Wanamaker, running a department store; Bernard Shaw, writing a play; E. H. Harriman, looting a railroad, and Harry Lehr, giving a monkey dinner. The idle sport is a useful member of society. He incites more directive ability in the captain of industry, who wants to make his own son an idle sport. Vive la Newport! Aside from using his leading term in a variety of senses, Mr. Mallock constantly assumes that the sole function of business men is to direct industry, and that, in general, their pay is proportionate to their service. We should like to commend to him Prof. Veblen's discussion of pecuniary and industrial employments, and then ask him to investigate how far the great American fortunes are the reward of social service in directing industry. The present order can be defended, but not on the basis of any such equivalence between service and financial reward as Mr. Mallock constantly and rather cleverly assumes.

It is his method of measuring the product of labor that is most edifying, however. It will be disquieting to radical agitators, however, to learn that labor is getting several times what it produces.

In a word, Mr. Mallock's analysis appears to us radically unsound. He easily enough exposes the fallacies in Marx's argument; that has often been done before. After all, is it very profitable to write many more theoretical books just now, either for or against socialism? Is it not more worth while to study with open mind the failures and successes, not only of the present system, but of the now numerous experiments in government operation of industry? But doubtless the Marxian socialist will not allow it.

Mazzarella, Joseph. *Les Types Sociaux et le Droit*. Pp. xxiii, 457. Price, 5 fr. Paris: Octave Doin, 1908.

This book is the second of twelve volumes projected, dealing with the various subjects within the domain of sociology. It is a study of social types from the juridical point of view, and embodies the results of ten years' inductive labor. In a valuable introduction, covering forty-four pages, there is a detailed critical examination of Post's theory as fully matured in his "Materials for the Universal Science of Law." With this as a point of orientation, Dr. Mazzarella divides his work into three parts: the first, devoted to the elaboration of his theory of fundamental types; the second, applies the theory to the gentile type of society; and, the third, in like manner, makes practical application to the feudal type of society. His purpose is to show by a comparative study the general process of development of juridical ideas and institutions, the causes which determine them, and the laws according to which they are formed.

The volume evidences the extreme precision with which the author has sought to deal with his subject and probably contains the most complete exposition which has yet been made in the illuminating field of juridical ethnology. The reader's attention is so skillfully brought to center on customs and institutions that the many other factors present in society as means and devices of social control may be easily forgotten.

McKenzie, F. A. *The Unveiled East*. Pp. viii, 347. Price, \$3.50. New York: E. P. Dutton & Co.

Recent writing on political affairs in the Far East lacks the optimism of the years following Secretary Hay's note of 1901 concerning the open door. The equality of opportunity which it was hoped was to be guaranteed seems to be fast disappearing in fact, though the theory is insisted upon as strenuously as ever. Mr. McKenzie adds another volume to those which see the greatest menace to western commercial interests in the monopolistic attitude of Japan. That the book is altogether unprejudiced cannot be claimed, but there are enough bold statements of fact to make the reader uneasy lest the unpleasant conclusions drawn may be justified.

The acts of the government of the island empire in crushing out the Korean sovereignty and in driving away foreign competition by the subsidy of favored national enterprises are outlined in detail. Chapters are also devoted to the international problems raised by the oriental immigrant in America and Australia, the contest for the commercial control of the Pacific and the "duties" of England and the United States in the Far East.

The last third of the book is given to an analysis of the complicated situation in China. The author sees much to hope for in the movements headed by Yuan Shi Kai and his associates, but the situation is too confused to allow a statement as to whether China's nationality can develop fast enough to save her from international extinction. The attitude of the book is partly one of alarm, partly one of doubt.

Métin, A. *Les Traités Ouvriers*. Pp. 268. Price, 3.50 fr. Paris: A. Colin, 1908.

Mitchell, W. C. *Gold Prices and Wages under the Greenback Standard*. Pp. 625. Price, \$5.00. Berkeley: University of California Press, 1908.

Morris, H. C. *The History of Colonisation*. Two volumes. Pp. xxiv, 459. Price, \$4.00. New York: Macmillan Company, 1908.

Reserved for later notice.

Parker, T. V. *The Cherokee Indians*. Pp. viii, 106. Price, \$1.25. New York: The Grafton Press, 1907.

This is a very good, brief, historical account of the Cherokee Indians, especially as concerns their relation to the United States government. The author is critical of the government's attitude toward the Indians, which he says has been one "of treaties violated, of promises broken and of partisan prejudice where there should have been judicial fairness." The government's relations with the Indians, except as individuals, will soon be things of the

past. In view of our contact, however, with other uncivilized peoples, we ought to learn from our failures, to avoid similar mistakes. Such a discussion, therefore, has a value, even if the sentimental wish that things could have been different is of no avail.

Pierce, F. *Federal Usurpation*. Pp. xiv, 437. Price, \$1.50. New York: D. Appleton & Co., 1908.

Rastall, B. McK. *The Labor History of the Cripple Creek District*. Pp. 166. Price, 50 cents. Madison: University of Wisconsin, 1908.

Reed, Milton. *The Democratic Ideal*. Pp. 48. Price, 75c. Boston: American Unitarian Association, 1907.

This is a little book, written from an ethical point of view, in which no ideal is presented. While the author prints some very just and harsh criticisms on modern economic conditions, he seems not to have a comprehension of the economic laws underlying many modern movements.

Reynolds-Ball, Eustice. *The Tourist's India*. Pp. 364. Price, \$2.00. New York: Brentano's, 1908.

The Tourist's India occupies a mid-way position between that of a guide-book and of a traveler's account of things seen, although, in this case, the author is careful to give due credit to all persons who have furnished him with authentic information not possible to have been gained by himself. It is a well-systematized tour, and throws light on many different aspects of life in the principal cities. The arrangement in chapters devoted to particular towns is one to be commended for ready reference, and will be of great help to a prospective tourist. Two or three chapters conduct one of the less frequented portions of the empire and off the beaten track. Practical suggestions as to clothing, outfit and manner of travel are appended, and a bibliography gives choice of many volumes for consultation. The book is brought up to date, with its references to the recent journey of the Prince of Wales through the empire, and is furnished with a good map and many excellent illustrations.

Robinson, J. H. and Beard, C. A. *The Development of Modern Europe*.

Two volumes. Pp. xviii, 810. Price, \$3.10. Boston: Ginn & Co., 1908. Reserved for later notice.

Schaffner, Margaret A. *The Labor Contract from Individual to Collective Bargaining*. Pp. 182. Price, 50 cents. Madison: University of Wisconsin, 1907.

Schuchart, Th. *Die Entwicklung der Deutschen Zuckerindustrie*. Pp. 270. Price, 5m. Leipzig: Werner Klinkhardt, 1908.

A 270-page study describing the development and present situation of the German sugar industry. It covers the whole field, including the labor situation and a 56-page chapter on the agricultural aspects of beet culture.

Shillington, V. M. and Chapman, A. B. W. *The Commercial Relations of England and Portugal*. Pp. xxxii, 344. Price, \$2.00. New York: E. P. Dutton & Co., 1908.

Socialism, the Case Against. Pp. 537. Price, \$1.50. New York: Macmillan Company, 1908.

Thompson, S. *Cost, Capitalization and Estimated Value of American Railways.* Third edition. Pp. 177. Chicago: Railway News Bureau, 1908.

Van Dyne, Frederick. *A Treatise on the Law of Naturalization.* Pp. 527. Price, \$5.25. Rochester, N. Y.: Lawyer's Coöperative Co., 1907.

Until the passage of the act of June 29, 1906, no change had been made in our naturalization laws for almost a century. Statutes framed for a population of four million, and for a country anxious to welcome immigration from every quarter still regulated our method of naturalization. This law effected a revolution in our legislation on the subject. Taken in connection with the later law of March 2, 1907, on citizenship and expatriation, it gives us at last a system of legislation adequate to our needs.

Mr. Van Dyne in this excellent volume brings together all the laws still in force dealing with the acquisition of citizenship by foreigners. The historical development of our present regulations is traced, as are also the judicial decisions and the opinions and rulings of the executive and international claims commissions.

The book will be found to be of great value to those having jurisdiction in naturalization proceedings, to lawyers who desire to advise clients who are seeking naturalization or to establish rights of citizenship and, in general, to every student and citizen who has an interest in solving those problems arising from the assimilation by the nation of the hundreds of thousands of aliens coming to our shores every year. An appendix of one hundred pages gives the text of the naturalization laws, naturalization treaties, recent executive orders on the subject and a list of the naturalization courts.

Van Vorst, Mrs. John. *The Cry of the Children.* Pp. xxiii, 246. Price, \$1.25. New York: Moffat, Yard & Co., 1908.

"When our people know that more than a million American children are dying of overwork or being forever stunted and dwarfed in body, mind and soul; when they know that we are pouring into the body of our citizenship two hundred and fifty thousand degenerates (at the very lowest estimate) every year who have clouded minds and a burning hatred of the society that has wronged them, and that they have ballots in their hands; when the nation learns of these things and many more just as bad, we may hope for an end of this national disgrace."

This quotation from Senator Beveridge's perfervid introduction gives a good idea of the tone of Mrs. Van Vorst's book, which is made up chiefly of conversations with children, descriptions of home and working conditions and a good many sentimental asides on the natural ability of the mill hands of Alabama and Georgia. There are also some pages on Maine, New Hampshire and Massachusetts.

It is probably still useful to stir up the people against child-labor by sending shivers down their backs, but on the whole, has not the time come for more sober argument and discussion of the means of doing away with

the abuse? Certainly it would be hard to justify the statement that economists declare that we should be willing to have a generation of boys and girls "sacrificed, crippled, deteriorated, starved slowly to death, in order that the cotton-mill industry in a single state shall prosper." Nothing is gained by over-statement and hysterics. Mrs. Van Vorst would do better to confine herself strictly to describing what she saw, for her strong point is not in drawing inferences. Nevertheless, the vividness of her book will doubtless rouse many other people, as it aroused the Indiana Senator, to realize some of the worst iniquities of child-labor.

Viallate, Achille. *L'Industrie Americaine.* Pp. 492. Price, 10 fr. Paris: Félix Alcan, 1908.

In this five hundred page work we have another number in the library of contemporary history, edited by Félix Alcan. It is another evidence of the great interest manifested in Europe in the extraordinary industrial developments now going on in America.

The attempt is made to cover a wide field, as shown by the scope of the contents. Part I shows our industrial development from 1789 to the present day. Part II on industrial organization also covers a wide scope, covering matters of legislation, the relation of the stockholder to the management, in our trusts, our railways, and our finances. Part III, under the title of industrial expansion, is a discussion of our present foreign trade, and of our prospective foreign trade in its competition with that of foreign nations. It is much to be regretted, and in this day scarcely believable that such a work should be so crippled as to be entirely devoid, not only of an alphabetical index, but even of a table of contents.

Wayland, J. W. *The Political Opinions of Thomas Jefferson.* Pp. 98. Price, \$1.25. Washington: The Neale Publishing Company, 1908.

Dr. Wayland's essay turns out to be a presentation of political opinions about Jefferson, as well as of those which can be ascribed to him. Even those writings quoted do not fail to include contradictions in thought, due perhaps to the fact that "Jefferson was not only a political scientist, he was also a practical statesman."

The opinions quoted are at times, too, selected rather than interpretive. Mr. Jefferson is pictured as an expansionist, but nothing is said of his earlier doubts of its constitutionality. The author thinks that possibly "he would have favored the acquisition of the nearer South American States." It is hard to reconcile such a belief with Jefferson's ideas as to the size of our navy and with his declaration in 1809 that if Cuba were acquired we should "immediately erect a column on the southernmost limit of Cuba and inscribe on it a *ne plus ultra* as to us in that direction."

de P. Webb, M. *India and the Empire.* Pp. xvi, 193. Price, \$1.20. New York: Longmans, Green & Co., 1908.

Reserved for later notice.

Webb, Sidney and Beatrice. *English Local Government.* Two volumes. Pp. viii, 858. Price, \$7.00. New York: Longmans, Green & Co., 1908. Reserved for later notice.

Wilson, W. *Constitutional Government in the United States*. Pp. 236.

Price, \$1.50. New York: Columbia University Press, 1908.

Reserved for later notice.

Wood, H. A. W. *Money Hunger*. Pp. 144. New York: G. P. Putnam's Sons, 1908.

After pointing out that at present there is no established basis for business ethics, and that the home, the church, the schools and the newspapers fail to supply any standard, the author devotes three chapters to a discussion of the responsibility of the press for present conditions of commercial immorality. He holds that these conditions are due largely to the failure of the press to measure up to its opportunities. The book is a protest against the abuses of competitive business, and, while it lacks the periods of Ruskin and the thunderings of Carlyle, it is nevertheless well done. The remedy advanced by the author for the conditions is an increased personal honesty, but he proposes no scheme for securing this honesty. The viewpoint of the book is distinctly ethical, set off by touches of innocent ignorance concerning the operation of economic forces.

REVIEWS.

Dunning, W. A. *Reconstruction—Political and Economic, 1865-1877*. Pp. 378. Price, \$2.00. New York: Harper & Brothers, 1907.

This volume was written as part of the American Nation Series, published under the editorial direction of Albert Bushnell Hart, of Harvard University. In his work entitled "Essays on the Civil War and Reconstruction," Dr. Dunning gave to students of American history a new outlook upon a period of our national development which has been so generally neglected, but which is fraught with lessons of the deepest import.

In the present work on the political and economic aspects of reconstruction, Dr. Dunning has more than fulfilled the promise of his earlier work. It is, in many respects, the best piece of historical writing that we have had during the last decade. His analysis of the economic, social and political conditions prevailing during the period between 1865 and 1877 gives to the reader a clear picture of the extraordinary situation that confronted the country. Although we are but a quarter of a century removed from the reconstruction era, it seems very much further from us, both in thought and feeling, than the earlier decades of the nineteenth century. The author has interpreted the spirit of this epoch far more successfully than any other historian who has heretofore attempted the task.

In his treatment of the subject the author has adhered steadfastly to the basic facts and the most important tendencies. In this respect he has shown great self-control, inasmuch as most writers on this period give more attention to the formation and methods of the Ku-Klux Klan, and the other devices resorted to for the purpose of intimidating the negro than to the really fundamental social and political problems.

An easy style, together with a remarkable power of concise statement have enabled the author to bring within the compass of a comparatively small volume a thoroughly adequate treatment of the most important constitutional epoch in American history. No one can hope to secure a true perspective of the development of the American nation without a careful study of Prof. Dunning's admirable work.

L. S. ROWE

University of Pennsylvania.

Hanotaux, Gabriel. *Contemporary France (1870-1900)*. Vol. III. Pp. ix, 634. Price, \$3.75. New York: G. P. Putnam's Sons, 1907.

The present form of government in France has been in existence for nearly forty years. In 1830 Talleyrand, on taking the oath to the constitution of the July monarchy, boasted that it was the thirteenth. Between 1830 and 1870 France was successively a monarchy, a republic and an empire, and since 1870 a republic again. The Third Republic has, therefore, by comparison at least, much that speaks for permanency and durability. Yet, as M. Hanotaux points out, it was the result of compromise, not of deliberate effort, on the part of the assembly that called it into existence. "Do not seek for the principles which guided us," declared the man of the National Assembly, which, though elected in 1871, dared not finally establish a republican government in France till 1875. "Chance alone was our master." The present volume of M. Hanotaux's able work deals almost exclusively with the establishment of the Republic in its final form, with the gradual development of the constitution and its interpretation, its "theory" as the translator puts it. The author's personal interest centers with much fondness in the Assembly which gave final shape to the republican government of France. "The Assembly," he writes, was "great less for what it achieved than for what it outlined, for what it did than for what it planned." Nevertheless, like Thiers, "It deserved well of its country." With the constitution as it was fully adopted none of the members of the Assembly were satisfied; all had "resigned themselves." In doing so they were not unmindful of the fact that across the ocean "another Republican constitution had been born under circumstances quite as difficult and doubtful."

With respect to the deeper forces that wrought a successful government for France, the author eloquently says, "The Constitution of 1875 was not the work of one man, neither was it elaborated in one day. It had lain within the bosom of France for nearly a century. . . . All the progress of France within the last hundred years had been toward one object: to organize popular sovereignty in a free country, with a controlled government. This ideal was that of the nation from the day when it became disgusted with kings."

Not much space is allotted to economic and social history. The social question, the Labor Congress in Paris, the press, municipal organization, and educational questions are treated as they appear reflected in the Assembly, where the absorbing interest is, of course, political. Indeed, on the one hand,

one cannot but regret that they should be treated as quite so secondary in importance, and on the other hand, that they should be allowed to enter at all at points where they necessarily interrupt the continuity of the evolutionary progress towards the constitution. Both lose by this method. At the same time, it is only fair to note that the treatment of these subjects, although sketchy, is generally masterful. Still the author might with profit have heeded Thiers' warning: "We have much too much politics in this country," and his own trenchant remark that "a representative assembly is not a whole people." A pleasing exception to the treatment of the subjects from the parliamentary standpoint is the account of the terrible blight which befell the vineyards of France between 1865 and 1882 during which one-half the total area of French vineyards was ruined. The foreign situation is treated with skill and penetrating insight. The space devoted to it is proportionately not large in view of M. Hanotaux's familiarity with this subject. Twenty-seven pages are devoted to *France and Europe in 1874*, and fifty to the *War Scare in 1875*.

The work has suffered considerably in translation because of the unusual license used by the translator in making excisions, often quite arbitrary in character, of clauses and sentences, and of most of the notes and explanations. So valuable a work should be given the English reader as nearly as possible as it leaves the author. Apart from this, however, the English rendering preserves the spirit of the original to a high degree.

WM. E. LINGELBACH.

University of Pennsylvania.

Lea, H. C. *The Inquisition in the Spanish Dependencies*. Pp. xvi, 564. Price, \$2.50. New York: The Macmillan Company, 1908.

Like Mr. Lea's other books, this is distinctly one of authentic information. No future writer on Spanish government outside of Spain, especially its American colonies, can disregard it; and, indeed, in the light of what is here brought forth, much of Spanish colonial history must be rewritten. Throughout, the work abounds in nice points of true historical criticism and philosophic insight. Its first five chapters on the European dependencies, namely, Sicily and Malta, Naples, Sardinia, Milan and the Canaries, are in large measure the drippings from their author's previous extensive research for his other volumes on the Inquisition. The last three chapters, by far the major and more valuable portion of the work, dealing with the Holy Office in Mexico and the Philippines, Peru and New Granada, represent an almost entirely new field, the only extensive work in which has been heretofore done by the Chilean scholar, J. T. Medina. The materials for the work have been drawn from many sources, in large part from manuscripts conserved in various archives, libraries and collections, both public and private. The few printed sources dealing with the Inquisition in the European dependencies have been freely consulted, while Medina has been the printed source for the latter chapters. It may be stated with almost positive assurance that the Mexican archives still contain much matter that

has not been utilized by Mr. Lea, and which, with the recent investigations of Dr. Bolton, will be far easier of access than formerly. The abundant matter in Blair and Robertson's *The Philippine Islands, 1493-1898*, touching the tribunal in Mexico, and especially its subordinate branch in the Philippines, has, however, been neglected. In Vol. v of the series, pp. 256-273, are given the instructions issued to the first commissary of the Philippines in 1583. Vols. xxv and xxvi contain much valuable information on the tangled relations of Gov. Corcuera with the episcopacy, religious orders and Inquisition, a perusal of which might have led Mr. Lea to modify some of his conclusions. Vol. xxxvi is rich in material *in re* the illegal and high-handed arrest of Gov. Salcedo by Inquisitor Paternina. On the whole, the Philippines deserved more space than has been given them. In that section (p. 299), the date of Bishop Salazar's arrival should be 1581. The first commissary in the Philippines seems to have been Diego Muñoz, O. S. A., and *not* Francisco Manrique (p. 300). Throughout the work, a closer chronological arrangement at times might have conduced to greater clearness. In the European part, one is brought into touch with all the state and ecclesiastical policies and machinations of the day. In the American chapters is adequately presented for the first time the awful consequences of the establishment in the western world of the Holy Office. These chapters, to a much greater extent than the preceding ones, unfold a tale of graft, immorality and corruption that is well-nigh incredible. In this hemisphere, so far from the Suprema, control or even direction in the slightest affairs was almost impossible, and the Inquisition became the instrument for the satisfaction of private aims, revenge and greed. It weakened and deadened all private and public life, and not even the most sacred relations were safe from its impious touch. One lays aside this book with mingled feelings of depression, pity and exultation—of depression and pity for the sufferings entailed and the blindness of the world; of exultation for the destruction through its own weight of the vast incubus that was sucking out the best of the lands on which it had fastened itself. State-ruled religions, or religion-ruled states alike are apt to prove evil in consequences.

JAMES ALEXANDER ROBERTSON.

Madison, Wis.

Metchnikoff, Élie. *The Prolongation of Life*. Translated by P. Chalmers Mitchell. Pp. xx, 343. New York: G. P. Putnam's Sons, 1908.

Old age is not brought on by a wearing out of the tissues. Many animals live for long periods. Others, of apparently equal strength, are short-lived.

Men desire to live long lives and it is right that their lives should be long. Many great things have been done by men who have passed the age of threescore and ten years. Scientific developments which will solve this problem of senility, thus providing a longer life for the race, will be of inestimable value to humanity. At present the knowledge of the author

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leads him to state that pure cultures of lactic microbes taken into the system will successfully destroy the intestinal flora which prove so destructive through the putrefaction developed by them.

The book is a splendidly clear analysis of the subject and presents the views of the author in a definite way, gratifying to those who are accustomed to the hopeless labyrinths of argument and reasoning in the average scientific book. The work is suggestive and should it lead, as it doubtless will, to a careful study and solution of the problems arising out of senility, it will mark an epoch in the control by man of environing conditions. To the economist, no problem to-day is more real than the problem of maintaining efficiency and reducing the death rate of those who would otherwise be rendering great service to the community. The author's biological interpretation leads to at least one very possible remedy.

SCOTT NEARING.

University of Pennsylvania.

O'Shea, M. V. *Linguistic Development and Education*. Pp. xviii, 347.

Price, \$1.25. New York: The Macmillan Company, 1907.

Several concrete subjects, studied inductively, furnish the major portion of the material contained in this book. The method followed has been that of observing "a child from the beginning of expressive activity on until he acquired a mastery of his mother tongue in its vocal and auditory forms," and endeavoring "to determine what psychological principles were illustrated in this development." Suitable comparisons with the work of others along this line are included.

The book is divided into two parts, the first dealing with "Non-reflective," the second with "Reflective processes in linguistic development." Beginning with experiences of discomfort, the subsequent stages of mental development are carefully traced—particularization, reaction to environment, spontaneous vocal activity, comprehension of the parts of speech and of proper word order, as well as of inflection.

Part II, which studies the child in his incipient school life, besides being analytic, is in a large measure didactic in purpose, and throws much light on our educational psychology. The teaching of reading, the use of definition and methods of learning spelling are discussed. The chapter on "Development of efficiency in oral expression" is of special interest and value. It examines the various methods of training in efficiency, notes their advantages and defects, and makes pertinent suggestions for further improvement. Of almost equal interest is the discussion of the "acquisition of a foreign tongue." The lessons which Europe has for us in this respect, although already known to us, are emphasized here, and their commendation by this able author will, it is hoped, aid in the revision of our system of instruction.

With the exception of several chapters, including those enumerated, the book will be read chiefly by specialists. The style, however, is forceful and agreeably simple. The reader's task in the study of the book is further

simplified by an analytical table of contents and by short summaries at the conclusion of each chapter.

GEO. B. MANGOLD.

Washington, D. C.

Poor, Charles Lane. *The Solar System.* Pp. x, 310. Price, \$2.00. New York: G. P. Putnam's Sons, 1908.

The character of this book is most clearly stated in the words of the author's preface, "An attempt was made to present the subject in untechnical language and without the use of mathematics, to show by what steps the precise knowledge of to-day has been reached, and to explain the marvelous results of modern methods and modern observations." The book therefore assumes a double character; for the student it becomes an unusually attractive text of both general and historical character; for the lay mind it represents the most readable exposition of the solar system yet published.

Most of the interest in the volume will naturally center round the discussion of Mars and its canals, topics which receive relatively more space than strict proportion would allot. The author fully justifies this action, however, by the admirably clear and forceful way in which he handles the much debated question. After carefully following the analysis of evidence for and against the existence of great and elaborate canal systems on our neighboring planet, no one could fail to agree with the conclusion that the objective reality of the canals has not yet been unquestionably established.

Frequent well-chosen illustrations add to the value of this volume which can be most highly commended both as a text book and as a general exposition of the most important of astronomical phenomena.

WALTER SHELDON TOWER.

University of Pennsylvania.

Russell, Charles Edward. *The Uprising of the Many.* Pp. xxiv, 364. Price, \$1.50. New York: Doubleday, Page & Co., 1907.

To the student of twentieth century democracy, this is a fascinating book. Mr. Russell has journeyed around the world, and has viewed, with the eyes of a journalist and socialist, what is newest in the age-long war against want and misery and oppression. First come co-operation and municipal trading in Great Britain; then a report on government railroads on the Continent, combined with a slashing attack on our system of private ownership. The interesting political and economic experiments of the vigorous Swiss democracy occupy the next three chapters. Plague, famine and pestilence in India, presented in some appalling figures, are credited, not to Malthus, but to autocracy and to the caste system which, we are warned, springs up wherever there is great power in the hands of a few men. The chapters on Japan are illuminating, punctuated as they are with this often-repeated warning of the yellow peril: "She has a government that does not hesitate to supplant individual with government enterprise, and she has a

working population, intelligent, capable, facile, industrious, orderly, and with a low standard of living." These chapters furnish food for reflection.

Australia and New Zealand fill the last third of the book with compulsory arbitration, minimum wage laws, compulsory repurchase of land, woman suffrage, state interference and economic heresy on the right hand and on the left. And yet Mr. Russell seems to think that the Australians are pretty well pleased with their experiments and are really succeeding in the trying business of self-government.

The book as a whole is refreshing in its sturdy faith in the common people and its evidence of their ability to solve the problems of the common good, once wealth and privilege can be compelled to give them a chance to try. While Mr. Russell's socialistic faith may not be shared in its entirety by most readers, while his book may be criticised as sketchy and incomplete, a work for the general reader rather than the scholar, no one can deny that he has brought together a body of facts unfamiliar to most Americans, and calculated to shake their confidence that the United States has everything to teach and nothing to learn in the school of democratic government. Whoever dips into this book will read it through; before he has finished it he will have done some hard thinking. Perhaps he will be none the worse that some of his formulas have been disturbed.

H. R. MUSSEY.

University of Pennsylvania.

Scott-Elliott, G. F. *Chile*. Pp. xx, 357. Price, \$3.00. New York: Charles Scribner's Sons, Importers, 1907.

Mr. Elliott has performed the same service for Chile as Mr. Enock for Peru in his recent book, "The Andes and the Amazon." He has, however, planned the work on a more ambitious scale, and enters with considerable detail into the early history of the country, devoting the first seven chapters to the period prior to 1700. The last nine chapters are devoted to a description of the economic, social and political conditions of modern Chile. In these chapters the author shows the same industry that characterized the earlier historical chapters, but it is also evident that he has failed to go very far below the surface in his analysis of political and social conditions. He does not bring out clearly the far-reaching influence of the triumph of parliamentary government in 1891 on the form and operation of the country's political system.

The chapters dealing with social customs and conditions are most interesting and give evidence of a keen power of observation. In this book we have the first step toward a study of South American social conditions, and it is to be hoped that the author will undertake similar studies in the other republics.

In the concluding chapter Mr. Elliott presents an enthusiastic picture of the future possibilities of Chile. In this estimate he fails to take into

¹"The Andes and the Amazon." C. Reginald Enock.

account the great social and industrial problems now confronting the country. Failure to give due weight to this phase of the Chilean situation robs the concluding chapter of much of its value.

L. S. ROWE

University of Pennsylvania.

Shaw, Albert. *The Outlook for the Average Man*. Pp. vi, 240. Price, \$1.25. New York: The Macmillan Company, 1907.

At first glance, one is tempted to call this book "The Outlook for the Average Young Man," as five addresses to college men constitute its contents. The title is well chosen, however, as expressive of the central thought running through the five chapters. A spirit of optimism pervades the pages and stamps the discussion of various professions which open to college men—but not the extreme optimism which has been defined as "not worrying about what is going to happen, so long as it is not going to happen to you."

The chapter on "The Business Career and the Community" considers the public aspects of the various professions. The lawyer, physician, teacher, engineer, architect, journalist, legislator, have each a public character. Every professional man should possess a sort of public spirit in his line of work; the physician should be interested in the health of the community, the journalist in its enlightenment, the engineer in general sanitary conditions. Public spirit is defined as "that state or habit of mind which leads a man to care greatly for the general welfare," and the development of this state of mind should be the great object of all training. Business also is of a public nature. "How to organize business life on a basis at once stable and efficient; how to see that capital is assured of a normal even though declining percentage of dividends, while labor shall be rewarded according to its capacity and desert,"—these are problems concerning the whole community and worthy the best efforts of the trained mind. Railroads and banks are already recognized as closely connected with the general welfare; and "there are regions where the capitalist who builds a cotton mill or factory is rescuing whole communities from degradation."

"From the standpoint of the intellectual interest of the young man going into business, let it be borne in mind that there are scientific principles underlying every branch of trade or commerce or industry, and that there is almost, if not quite, as much room for the delightful play of the faculty of imagination in the successful conduct of the soap business, as in writing poetry, or in making statuary groups for world's fairs."

ERNEST SMITH BRADFORD

Washington, D. C.

Simpson, W. J. *A Treatise on Plague*. Pp. xxiv, 466. Price, 16 shillings. Cambridge: University Press.

As a disease capable of causing more than a million deaths in India during a single year, 1904, as the cause of the famous "Black Death," and innum-

(460).

erable other epidemics of no less deadly destruction in the Old World, plague must be regarded as one of the most important of all the forces against which Eastern peoples have had to contend. The Western Hemisphere has fortunately been singularly free from great outbreaks of this disease and with due precaution, this degree of immunity will doubtless continue. In Asiatic countries, on the contrary, much work is necessary before those regions of poverty and distress can hope to be rid of plague ravages. For India especially it is a grievous calamity, bringing suffering and desolation which cannot be realized by those outside the country's borders. With thirty or forty thousand deaths a week during the plague season, India is confronted with scarcity of labor and declining trade in the provinces most affected. As a social and economic factor, therefore, plague assumes gigantic proportions, and carries with its study an interest attaching to few other diseases.

In this monograph the author has divided his discussion into four general fields as follows: first, the history and geographical distribution of the plague; second, the epidemiology of plague; third, the clinical and therapeutic features; and finally, the measures for prevention and suppression of the disease. An appendix gives the provisions adopted by the International Sanitary Convention, meeting at Paris in 1903, presenting the rules to be observed when plague appears.

The historical section deals mainly with the great epidemics during the Christian era, and points out the close relation between trade and the spread of plague which was recognized at a very early date. This relation, however, is most strikingly illustrated by the fact that even down to the present time the disease, common enough at Chinese seaports, has not made extensive inroads into the interior of the country except in those districts where waterways connect them with infected localities. With the rapid trade development of Eastern Asia, and the building of railroads where such routes have not existed heretofore, the necessity of plague control becomes all the more urgent not only in Asia itself, but also in those countries which are rivals in Asiatic trade. This fact is shown graphically on a map of the world, giving the location of endemic centers and the spread via maritime routes in the decade 1894 to 1904.

The most interesting part of the volume is the portion dealing with the epidemiology of plague, discussing as it does the relation between epizootics and plague epidemics, the effect of meteorological, climatic and seasonal conditions, social and sanitary conditions, and the spread of plague in pandemics. Several striking diagrams illustrate the close relation between mortality among rats and human deaths from plague, a relation observed by the Syrians 3,000 years ago. The author's conclusions regarding the factors favoring epidemics and pandemics may be summarised as follows: that they are generally associated with unusual seasons, as drought and famine years, which bring distress and misery, with political, social or economic conditions which are the reverse of prosperous, and with laxity or absence of sanitation. Where the social conditions are worst, where poverty, misery, overcrowding, poor food, and unsanitary conditions pre-

vail, there plague commits its greatest ravages. Hence the remedy becomes largely a social question.

Entirely apart from its medical aspects, which are here readily intelligible even to the layman, the study of plague must prove decidedly fascinating to anyone at all interested in social, political or economic problems. A topical table of contents, a full index and numerous excellent charts and diagrams add greatly to the value of the book.

University of Pennsylvania.

WALTER SHELDON TOWER.

Smith, J. Russell. *The Story of Iron and Steel*. Pp. xi, 193. Price, 75 cents. New York: D. Appleton & Co., 1908.

Complete in detail, clear and forceful in diction, with few technical terms, this book may truthfully be described as the first satisfactory popular history of the world's greatest industry. Although of small compass this volume gives what larger volumes have failed to do—namely, an intelligent, readable presentation of the broad aspects of iron and steel making, which are of interest to the average man. It discusses not only the purely technical development from a historical standpoint, but also the no less important economic and commercial results accompanying this development.

The chapters deal in order with iron ores and their formation; the early history of iron; the beginning of modern iron-making and its introduction into America; the anthracite epoch; the coke epoch; the leadership of Great Britain in the nineteenth century; the coming of the age of steel; the supremacy of the United States; consolidation and combination in production; and the ore and steel supply of the future.

The last two phases of the subject have called forth the presentation of essentially new views. In the author's opinion the steel trust is based on possession of the best ore and is a secure monopoly only in so far as it controls the most important sources of raw materials. Certain independent concerns, favored by location may be regarded as benefiting from the formation of the trust because of the consequent price control. The security of the trust, moreover, depends on a continuation of present processes of iron and steel manufacture as illustrated by the obvious conclusion that a trust formed on the use of anthracite coal would have perished unless it could have changed its basis early in the succeeding coke epoch. Without radical changes in technical processes the supremacy of the trust is likely to increase as the independent supplies of raw material are exhausted. The revolutionary change of technical process is, however, not such a remote possibility after all. The perfection of the electric furnace to such a degree that it will become an important industrial factor, and the necessity of turning to ore supplies now considered inferior or impossible to adapt to existing processes, unquestionably mean vast changes in the future. Just what these changes will be is, of course, a speculative matter, but the discussion of them, in so far as is possible, forms one of the most interesting parts of this very instructive book.

University of Pennsylvania.

WALTER SHELDON TOWER.

Spargo, John. *The Common Sense of the Milk Question.* Pp. xiv, 351. Price, \$1.50. New York: Macmillan Company, 1908.

In his latest book Mr. Spargo undertakes to provide a statement of the milk problem that can be readily understood and appreciated by the man of average intelligence. He succeeds admirably and his work ought to prove extremely useful. The book takes up, in simple, popular fashion, the question of infant feeding. It points out the dangers of filth in milk and of milk-borne diseases, especially tuberculosis. The plain facts here rehearsed, without any attempt at sensationalism, will arrest the attention of every thoughtful reader and help him realize how great is our social responsibility for the ignorance and carelessness that bring about such a terrible slaughter of the children.

The second half of the book deals with the various methods of improvement and their remarkable results in saving child life. Mr. Spargo urges drastic inspection laws to stamp out tuberculosis, and favors invoking the federal authority for this purpose. He advocates municipal dairies to supply public institutions, with ultimate extension so as to provide milk for children outside. His final chapter outlines a comprehensive policy for securing good milk, with the following points: "Healthy herds—efficient inspection—insistence upon cleanliness and careful handling of the milk—municipal farms for the providing of public institutions, infant's milk depots for the sale of properly modified and pasteurized milk for babies, and education of the mothers and of the girls before they reach wifehood and motherhood." It is a reasonable, practical program, just as the book is a reasonable, practical book. A good index and a list of some of the best references add to its value.

H. R. Mussry.

University of Pennsylvania.

Spears, J. R. *A History of the United States Navy.* Pp. xii, 334. Price, \$1.50. New York: Charles Scribner's Sons, 1908.

The greater part of this book is occupied in telling the story of our important naval battles, giving considerable attention to the "heroes" who commanded the American ships. In addition, there are brief chapters on the naval situation at the beginnings of our war and on the development of ships and guns in the old navy, the building of our present "White Squadron," and the naval development of the past ten years. Except in the opening chapter, which discusses the organization of our first navy, the question of administration is not considered.

The general thesis is that the United States has had peace when her navy was strong and well prepared and has had one war with imminent danger of others when our navy was neglected. On this basis, the natural plea for a larger navy, as a safeguard to peace, is made. Emphasis is laid on the foolishness of the policy of "peaceable coercion," which preceded

the war of 1812, and on the effects of "letting other nations experiment for us" during the quarter-century following the Civil War, when modern war vessels were being developed. The most radical feature of the book is a recommendation that the Naval Academy be made free to all who can pass its examination, in the hope of manning our ships with its graduates and creating an efficient naval reserve.

RAYMOND G. GETTELL

Trinity College.

Urussow, Prince Serge D. *Memoirs of a Russian Governor*. Translated by H. Rosenthal. Pp. 181. Price, \$1.50. New York: Harper & Bros., 1908.

Russia has always been a land shrouded in more or less mystery. We have heard of its government system almost entirely from the outside. It remains for Prince Serge Urussow to show us a view from the inside. Because of his experience as governor of the province of Bessarabia he is enabled to give an authentic sketch of the complex workings of the Russian government. Although a staunch patriot, he is not blind to the evils of the administration. The corruption and intrigues of officials, the schemes of the police department, the oppression of the Jews and the peasants are described with a surprising breadth and fairness of judgment.

The discussion of the relations of the Russian government with the Jews forms the most interesting and most important part of the "Memoirs." Prince Urussow became governor of Bessarabia soon after the massacre at Kishinef, he was present at the trial of the ringleaders, and it was due to him that the relations between the Jews and the other Kishinef inhabitants were amicably settled. Hence his discussion of the massacre and the whole Jewish situation has peculiar significance and weight. He shows how the Jews are oppressed, especially in the treatment of Jewish conscripts, in the detailed laws regulating their professions and providing where they shall live. The Jews are required to give a greater quota of men for the army than are the other Russian subjects. Russia makes no effort to educate the Jews. Along with the other oppressive measures are the heavy taxes. Most absurd was the basket tax, a tax levied on meat and fat. Butchers were compelled to separate them and thus reduce the value of merchandise. If all these measures were enforced, the fate of the Russian Jew would be indeed almost insupportable. But the ease with which the police can be bribed has made it possible to evade many of the troublesome laws.

Besides this discussion of the Jews, Prince Urussow says much about the provincial administration, and gives a rather amusing account of Kishinef society, its customs and habits. The "Memoirs" are written in an easy, natural style, and there are a few touches of humor. Because of the light it throws upon the inmost workings of the Russian government it is a book which everyone will read with interest. Mr. Rosenthal, the

translator, has rendered a good service in bringing such a book within our reach.

LURENA WILSON TOWER.

Philadelphia.

Watson, W. P. *The Future of Japan*. Pp. xxi, 389. Price, \$3.50. New York: E. P. Dutton & Co., 1907.

In this book the author has attempted a broadly planned synthesis of Japanese political and social psychology. As is generally the case in works of this nature, we must not understand the latter term in too technical a sense. Among the many books on national and race psychology which have been written in the last decade or so, there is not one which confines itself strictly to considerations which may be technically called psychologic. In fact, they often give us merely a general description of institutions and manners. In the present volume, however, intellectual and psychologic factors occupy the center of the stage.

Mr. Watson's book does not shed any new light on the details of Japanese social and political organization, nor is it intended to be an account or summary of Japanese institutions. It is an analysis of present conditions and tendencies implying certain directions of development. Though the work contains no new facts, there is a redistribution of emphasis, which brings out into strong relief certain considerations that have thus far perhaps not been given the weight which they justly deserve.

In discussing the character of the political institutions of Japan, the author dwells chiefly upon their oligarchic nature. The fact that throughout the great period of reform and regeneration, the mass of the people has taken no active part in public affairs, that on the contrary, the destiny of the empire has rested in the hands of a small group of experienced leaders, is very strongly and clearly set forth by the author, with all its secondary consequences. The abyss between the people and their leaders is one of political power rather than of social feeling. The author accounts for the abuse and the frequent attempts at assassination directed against the leaders, the contempt of authority which is at times surprising, through the fact that the leaders have themselves repudiated the older canons of authority.

The author does not recognize any radical psychological difference between the Japanese and the European mind. There may be disagreement as to certain values, but there is an ultimate rational identity. The substance of reason is the same to both. The author's main thesis in this work may be summarized as follows: The leaders of the Japanese regeneration have as their ideal a state free from religion, governed by the unquestioned principles of science and logic. However, while not recognizing any religion, they have been forced to utilize religious emotions in the cult of the emperor and loyalty to the fatherland, which is, in fact, the basis of their authority. On the other hand, they have in the constitution openly invited the public in general to participate in political action.

To the author's mind the ideas of commonwealth organization and of imperial sanctity are incompatible. The religion of loyalty which has helped the people of Japan over the present crisis will gradually wane and Japan will then feel the need of a religious interpretation of life. He does not discover anything in Bushido, Shintaism or Buddhism which may be made the basis for a future regeneration of religious Japan. The solution he suggests is that Japan should come to appreciate the power and importance of the personality of Christ.

PAUL S. REINSCH.

University of Wisconsin.

Weale, B. L. P. *The Coming Struggle in Eastern Asia*. Pp. 640. Price, \$3.50. New York: Macmillan Company, 1908.

This volume makes more definite the author's reasons for regarding the Peace of Portsmouth and the second Anglo-Japanese alliance with dissatisfaction, if not, indeed, with distrust and apprehension. A year ago he qualified the general enthusiasm with which these instruments were received by the disconcerting statements of facts contained in "The Truce in the East and its Aftermath." The outlook has now become clearer, but even less assuring than before. The East is still on the eve of great events. The former book pointed to the possibility that the advance in China would come with sufficient rapidity to make a speedy recurrence of the events of 1904-05 improbable, if not impossible. Such a development now seems less to be relied upon.

Russia, still firmly entrenched on the north, is consistently pursuing her colonization policy, and even at the present time is "three or four times as strong in the Far East as she was in 1904." The grain fields and cattle farms of Siberia, with the control she possesses through the railway over the resources of Northern Manchuria, will put her in an increasingly strong position in future negotiations concerning Eastern Asia. The late war was for her only a preliminary skirmish. Japan's attitude is one of contradiction. Having tried to play up to the standard of a first-class power she now finds herself without the material resources or financial backing to keep up the part. Notwithstanding her position, in fact precarious, she is adopting a policy of aggression not only in Corea, but in Manchuria and China generally, which if unmodified, cannot but lead her again into international trouble. The attitude of all the agencies of her government is to observe the letter, but disregard the spirit of the engagements into which she has entered, guaranteeing the "open door." Her government is completely under the control of the bureaucracy, and can therefore carry on a far-sighted and consistent policy with much less difficulty than is possible in countries under true democratic control. Germany and France are unknown quantities, neither of them at heart disposed to give strong support to the doctrine of equal opportunity, and both determined to be ready for a share of the spoils, if the turn of events brings a division.

The author's attitude toward the recent agreements guaranteeing the

integrity of China is a double one. At times the extension of these guarantees to include Germany and the United States is urged, but most of the argument stigmatizes them as bad diplomacy, the end of which is to guarantee the powers against each other instead of working for the real advancement of China by aiding her to escape from her present anomalous international position. The satisfactory solution of affairs lies in the hands of England and the United States. The former is bound by the Anglo-Japanese alliance which the author considers a bad diplomatic blunder, but England could still accomplish much by insistence upon the actual rather than formal observation of the open door and the speedy execution of the Mackay treaties. The interests of the United States should prompt the adoption of these same policies, and in addition the republic should at once take steps to secure the predominance of its fleet in Asiatic waters. Neither of these powers is using at present the active diplomacy its interests should dictate.

The general tone of the book is one of disappointment and gloom. The criticisms are often directly opposed to those commonly passed on the same subjects in Europe and America, but the conclusions are reached by an acute observer of Oriental affairs and are based on statements of fact convincing and often startling, a fact which gives the arguments more than ordinary weight.

CHESTER LLOYD JONES.

University of Pennsylvania.

Wells, H. G. *New Worlds for Old*. Pp. vii, 333. Price, \$1.50. New York: Macmillan Company, 1908.

Not for a long time has the literature of socialism been enriched by a more reasonable and entertaining book than this. Though a convinced socialist, Mr. Wells is not obsessed of a formula; there are several things in the future about which he is not certain; his pages do not run red with the blood of those marvelous metaphysical creatures, capitalists and proletarians. It is all very strange and refreshing.

Instead of starting out with Karl Marx and the class struggle, Mr. Wells begins with what he calls the two main generalizations of socialism: First, "That the community as a whole . . . and every individual in the community . . . should be responsible for the welfare and upbringing of every child born into that community;" and, second, "That the idea of the private ownership of things and the rights of owners is enormously and mischievously exaggerated in the contemporary world." On these propositions Mr. Wells bases his arguments and they are rather hard to quarrel with in the moderate form in which he states them. Given this basis, then, social development becomes chiefly a question of method. In fact, the distinctive merit of this book is its insistence on the mental quality of socialism, the fact that it is a matter of expanding men's spirit of action and habitual circles of ideas, as the author put it.

With rare skill Mr. Wells takes up the most common objections to socialism. Then follow three historical chapters, outlining the ideas of

the Utopians and Marx and paying tribute to the services of the Fabians. These chapters are notable for the clearness with which they recognize the political and social reorganization that must accompany any progress toward a socialistic system. There are two interesting and ingenious chapters of speculation as to what life would be like under socialism. Apparently men will live pretty much as they do now, except that they will be healthier, happier, more efficient and less worried; it is easy to make men so on paper. The only persons whom the book need make thoroughly unhappy are Mr. Mallock and the simon-pure Marxists.

Mr. Wells has written an excellent book, though not a perfect one. Some of his difficulties he slurs over instead of meeting them squarely. He seems to over-emphasize the destruction overtaking the middle class. He paints the socialist agitation in colors rather too quiet, and tones down its extravagances a bit unjustifiably, if we are to view his book as representative of the whole movement. But his work in picturing the essential elements in socialism and in indicating its goal, as seen by an unusually clear-headed socialist, leaves little to be desired. The book is good-tempered, fair, sane and well written. The best thing to do with such books is to read them.

H. R. MUSSKY.

University of Pennsylvania.

Westlake, John. *International Law*. Two vols. Pp. xxvi, 690. Price, 9s. each. Cambridge: University Press; New York: G. P. Putnam's Sons, American Agents.

Prof. Westlake has given us an excellent compendium on international law. He has not attempted an exhaustive and technical treatise, but rather a general work, which would appeal both to university students, publicists and that widening circle of the reading public interested in international questions. The first volume is devoted to the law of peace; the second volume to the law of war and of neutrality.

The distinguishing characteristic of Prof. Westlake's work is that he has succeeded in emancipating himself from the insular prepossessions which have heretofore characterized so many of the British works on international law. His work indicates not only a thorough acquaintance with the details of international practice, but also a broad philosophical grasp and a rare ability to coordinate facts in such way as clearly to illustrate general principles.

The author's treatment of the equality of states is particularly interesting and instructive. With great clearness and precision he shows the gradual growth of the European Concert and its influence on the general doctrine of equality. He also shows an excellent grasp of the broader bearings of the Monroe Doctrine, which he rightly judges, not as a rule of international law, but as a principle of American policy.

The work also contains two exceedingly valuable chapters on international arbitration (Vol. I, page 332), and on the Hague Conference of (468)

1907 (Vol II, page 266). In these two chapters the author presents concisely the progress that has been made during recent decades.

While this work cannot be said to present the subject from a new point of view, it is in many respects the most satisfactory summary of the present status of international law available to English speaking students.

L. S. ROWE

University of Pennsylvania.



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**THE ANNALS of
THE AMERICAN ACADEMY OF POLITICAL
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4

**Regulation
of the
Liquor
Traffic**

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Economic Prizes

FIFTH YEAR

In order to arouse an interest in the study of topics relating to commerce and industry, and to stimulate those who have a college training to consider the problems of a business career, a committee composed of

Professor J. Laurence Laughlin, University of Chicago, chairman;
Professor J. B. Clark, Columbia University;
Professor Henry C. Adams, University of Michigan;
Horace White, Esq., New York City, and
Hon. Carroll D. Wright, Clark College,

have been enabled, through the generosity of Messrs. Hart Schaffner & Marx, of Chicago, to offer in 1909 prizes under two general heads. Attention is expressly called to a new rule that a competitor is not confined to subjects mentioned in this announcement; but any other subject chosen must first be approved by the Committee.

I. Under the first head are suggested herewith a few subjects intended primarily for those who have had an academic training; but the possession of a degree is not required of any contestant, nor is any age limit set.

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2. The logic of "Progress and Poverty."
3. What are the ultimate ends of trade-unions and can these be gained by any application of the principles of monopoly?
4. In view of the existing railway progress, should the United States encourage the construction of waterways?
5. Is it to be expected that the present and recent production of gold will cause a higher level of prices?

Under this head, CLASS A includes any American without restriction; and CLASS B includes only those, who, at the time the papers are sent in, are undergraduates of any American college. Any member of CLASS B may compete for the prizes of CLASS A.

A First Prize of Six Hundred Dollars, and A Second Prize of Four Hundred Dollars

are offered for the best studies presented by CLASS A, and

A First Prize of Three Hundred Dollars, and A Second Prize of Two Hundred Dollars

are offered for the best studies presented by CLASS B. The committee reserves to itself the right to award the two prizes of \$600 and \$400 of CLASS A to undergraduates in CLASS B, if the merits of the papers demand it.

II. Under the second head are suggested some subjects intended for those who may not have had academic training, and who form CLASS C:

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2. Desirable methods of improving our trade with China.
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The ownership of the copyright of successful studies will vest in the donors, and it is expected that, without precluding the use of these papers as theses for higher degrees, they will cause them to be issued in some permanent form.

Competitors are advised that the studies should be thorough, expressed in good English, and although not limited as to length, they should not be needlessly expanded. They should be inscribed with an assumed name, the class in which they are presented, and accompanied by a sealed envelope giving the real name and address of the competitor. If the competitor is in CLASS B, the sealed envelope should contain the name of the institution in which he is studying. The papers should be sent on before June 1, 1909, to

J. Laurence Laughlin, Esq.
The University of Chicago
Chicago, Illinois

Regulation of the Liquor Traffic

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OF THE

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THE LOCAL-OPTION MOVEMENT

BY S. E. NICHOLSON,

Harrisburg, Pa.; Superintendent, Pennsylvania Anti-Saloon League; Secretary, Anti-Saloon League of America.

The temperance movement has been forming in America for a century. Having its genesis in a protest against excessive drunkenness, it passed by successive stages first to a plea for only moderate indulgence, then to a protest against inebriety in any stage, culminating later in a nation-wide demand for a universal standard of total abstinence. Here the first obstacle was met in the movement for temperance reform. Gradually there came the consciousness that the drunkard was only the product of the drunkard maker. The reformer came to see the incongruity of trying to maintain the saloon as a place of public resort, and at the same time trying to enforce the principles of total abstinence.

At once there began the movement, which has now grown nation-wide in its operations, to remedy the evils of drinking, by striking at its source in the public saloon. As a problem in social ethics, the futility of reforming the drunkard and preserving others from the drinking habit was clearly seen, so long as the public saloon was allowed to educate the people along contrary lines.

Therein lay the foundation of the present-day local-option movement in the United States. At first every form of regulation merging into restriction was experimented upon. License, low, medium and high, has been tried in every conceivable form. The restraining hand of the law has been laid heavily upon the traffic at almost every point. It has been hedged about, until the liquor business stands plainly in a class by itself, controlled and restricted as is no other business interest in America to-day. Yet has the blight of the traffic continued to fall upon our people, until the home, the church, and the electorate have each alike felt the deadly sting of its touch.

Little wonder then that a conviction began to seize the American mind that a business that could not be controlled and would not be regulated could only be destroyed. Little wonder then that

the public conscience, outraged by the excesses of the traffic, and driven to a desperate resolve by the continued lawlessness of the saloon, should have begun to suggest plans for the ultimate extinction of the public drink traffic.

When this remedy, radical as it was, was once presented, its advocates grew to a multitude in a single decade, and when civil war rent the nation almost asunder, and for the time absorbed the public mind in other great problems, a surprisingly large number of states had determined to abolish the saloon.

The dark days of the '60's were dark days for the temperance movement. The liquor men, chiefly the manufacturers, driven to desperation by the events preceding the culmination of the slavery agitation, seeing now the financial distress of the government at Washington, with rare foresight stepped to the front and asked that their products be taxed to meet the extraordinary expenses of the war. Thus in a day, by the passage of the internal-revenue laws, was a large share of public opposition mollified, and for a quarter of a century was the public conscience eased on the subject of the liquor traffic. It is said that President Lincoln, deprecating the advantage which he so readily foresaw would accrue to the liquor cause, at first refused to affix his name to the bills levying a heavy tax upon the production of liquors. Being assured, however, that they were only war-relief measures, he affixed his signature with the expectation, it is said, that the tax would be repealed with the close of the war. But when fighting had ceased Lincoln was in his grave, the war tax was perpetuated, and for twenty-five years the people seemed slow to resume a conflict with a business that was contributing so largely to the public revenues. Profiting by the absorption of public attention in the issues that grew out of the destruction of slavery and the reconstruction of the states, the liquor men, with a strategy worthy of a better cause, saw their opportunity to enter the political arena, and for forty years created and held the balance of power between parties, supporting only their friends and warring upon their enemies, while the better citizenship of every state was settling the problems of civil war. Herein lay the secret of the political power of the saloon, which has become proverbial in nearly every large city of the republic.

With the passing of the years, however, and with the growing arrogance and lawlessness of the saloon, there was crystallizing

again a public sentiment that demanded the destruction of the traffic in drink.

Maine, the pioneer in the movement to abolish rum, survived the deluge of civil war and remained true to its first principles. Kansas, by a narrow margin, in 1880, abolished the saloon by constitutional authority, followed by North Dakota with its admission to statehood. But reverses elsewhere led to an enforced reconstruction of the methods of attack. The necessity arose for a workable plan that would meet the liquor men upon their own ground and that would seek legislation of a sort that would be enforceable by the power of a concentrated local public sentiment. Georgia this time blazed the way with a plan that accorded with the true American principle of local self-government, and more than twenty-five years ago adopted a system of local option, putting the liquor question in the hands of the voters of a given local community, to determine whether or not the saloon might continue to exist therein. The wisdom of this system, which not only harmonizes the operations of the law with existing local public sentiment but guarantees under present conditions a better and more permanent form of law enforcement, is evidenced by its persistent spread throughout the nation, until to-day every state is operating under some form of local option except the three prohibition states of Maine, Kansas and North Dakota, above mentioned, the wholly license states of Pennsylvania, New Jersey, Washington, Montana, Wyoming, Nevada, Utah and New Mexico, and Georgia, Alabama, Mississippi, North Carolina and Oklahoma, which have recently passed from local option to state prohibition.

Coincident with the growth of the local-option movement, and the spread of no-license territory under the operations of such a statute, have been the origin and development of the Anti-Saloon League. This society has sought to organize and apply an awakened public sentiment as a force in politics and legislation that would outweigh and defeat the machinations of the organized liquor forces. Within this arena, and upon this basis, will a campaign be waged for the next decade, between the now thoroughly aroused liquor elements on the one hand and the rapidly organizing and solidifying anti-saloon forces on the other hand, a campaign to determine in its first analysis the extension of no-license territory to the farthest possible limit, but in its final result to establish the control of poli-

tics, legislation and government either by the forces of evil or of righteousness.

An accurate and full chronology of the progress of the local-option movement by states would not be possible within the limits of this paper. By legislation already enacted, on and after the first of next January eight states will be free from the licensed saloon. Tennessee has only three cities and one town remaining with the open saloon. Texas, with 152 entirely dry counties out of 243, will probably vote on the question of state prohibition, after the next legislature, as directed by the vote of the recent Democratic primaries in that state. Virginia has 80 dry counties out of 100; Kentucky 92 out of 119; Missouri 77 out of 114; Arkansas 58 out of 75; Florida 36 out of 46; Iowa 77 out of 99; Maryland 10 out of 23; Louisiana 30 out of 50 parishes; Delaware 2 out of 3 counties; Michigan 11 out of 84; Nebraska 21 out of 90; Oregon 21 out of 33; South Carolina 18 out of 41; South Dakota 13 out of 64; West Virginia 33 out of 55; Indiana 25 out of 92, and so on for quantity. All these states and the others which have local-option statutes have much of dry territory additional by township, town or ward option, as in Ohio, where 1,155 townships out of 1,371, and a majority of the towns are dry, and where under a new county law votes are pending in twenty-eight counties to determine the question of saloon existence therein. In Vermont, where 219 of the 246 towns are without saloons; in New Hampshire, six of her eleven cities and 180 of her 223 towns are under no-license; in Connecticut, ninety-six of 168 municipalities are dry; in Illinois, thirty-six counties and 1,053 out of 1,400 townships have abolished the saloon; in Massachusetts there are 277 dry municipalities to seventy-seven wet ones.

The effort to secure a local-option statute in Pennsylvania, the one large state where the liquor forces still have full sway, is already well under way. In the last legislature a motion to place the Craven local-option bill on the house calendar, despite an unfavorable committee report, resulted in a vote of ninety-six for the motion to eighty-nine against, lacking only eight votes of the 104 needed under the rules of the house to adopt the motion. At the April primaries the nomination of candidates for the legislature turned upon the local-option issue to a large extent, and, despite the claims of the liquor men, the Anti-Saloon League has carried the fight to

the fall election with large hope of success, and will appeal confidently to the next legislature for the enactment of a local-option law for Pennsylvania.

The Keystone State is now the great temperance battle ground of the nation. So long as it can be held wholly in the license column with no final appeal to the arbitrament of the people possible, so long will there be hope to the liquor cause throughout the nation. If their lines be broken here, their hope for ultimate victory in the nation will have fled.

There is naturally much confusion as to the real meaning of local option. By many it has been confounded erroneously with immediate prohibition. To some it is a supposed interference with personal liberty, ignoring the fact that it is the highest idea of liberty—the rule of the people locally upon a question of tremendous importance to the entire community. By some it is confused with partisan movements to the detriment of the local-option cause, and the liquor men have not failed to act assiduously in adding to the confusion along all these lines. To relieve this confusion, and to set forth the real meaning of the movement, the Pennsylvania Anti-Saloon League has just issued a concise statement under the heading, "What is Local Option?" as follows:

It is a law that enables a community opposed to saloons to keep them out, even though other places in the state may allow them to exist. It does not repeal the Brooks law, but supplements its operations. Its essential element is the rule of popular government. There can be no principle of legislation more American, or more democratic. To refuse the right of the people to determine such a question for themselves by communities, and thus permit saloons to be forced upon neighborhoods—residence districts, for instance—against the popular will, as is frequently the case, is to proclaim an autocracy of rum that is thoroughly at variance with our American usages. Local option is neither a partisan nor factional question. It simply means the rule of the people, under which, upon petition of a certain per cent of the voters of a given unit of territory—25 per cent in the Craven bill—the court orders an election in that territory to determine whether or not for a certain period of time the sale of liquors shall be prohibited therein.

LOCAL OPTION AND ITS RESULTS IN OHIO AND GEORGIA

OHIO

BY THE LATE MRS. ANNIE W. CLARK,
Former President, Ohio Woman's Christian Temperance Union.

Ohio has four local option laws. The "Township" law by which 25 per cent of the qualified electors of a township, exclusive of any incorporated village or city in such township, may by petition require a special election to be held, and a majority vote to exclude saloons makes it unlawful to traffic in intoxicating liquors in such townships. New elections can be held, on new petition, not oftener than once in two years.

Many good people were inclined for a time to ridicule this law as merely an effort to keep saloons away from farms, but the value of the law became apparent later when saloons voted out of towns began to locate just over the corporation line in the township.

The second local option law, enacted in April, 1902, called the "Beal" law, was secured after a ten years' struggle.

Under that law 40 per cent of the electors in any municipal corporation, by petition, can require a special election to be called to determine whether the liquor traffic shall be excluded from such municipality, a majority vote at the election deciding the question. New elections are permitted not oftener than once in two years.

In April, 1904, a third local option law was passed, called the "Brannock" law, providing for elections in residence districts of cities, the boundaries of the districts to be set forth in the petition. March 15, 1906, the Brannock bill was set aside by the passage of the Jones law, which makes residence districts in cities "dry" on petition of a majority of the voters in such districts without holding an election.

The county option law, passed in 1908, or the Rose bill provides that whenever thirty-five per cent of the qualified electors of any county shall petition the commissioners or any common pleas judge of such county for the privilege to determine by ballot whether the sale of intoxicating liquors as a beverage shall be

prohibited within the limits of such county, such commissioners or common pleas judge shall order a special election to be held in not less than twenty, nor more than thirty, days from the filing of such petition with the commissioners or common pleas judge. The result of such election shall forthwith be entered upon the record of the proceedings of the commissioners, and with the clerk of the common pleas court. If this record shows a majority cast against the sale, it shall be prima facie evidence that the selling, furnishing or giving away of intoxicating liquors as a beverage shall within thirty days from the day of holding the election be prohibited and unlawful.

If a county having dry towns, votes wet, the dry towns remain dry. If a county having wet towns votes dry, the wet towns become dry. Penalty for violation of law is not more than \$200 nor less than \$50 for the first offense and for any subsequent offense not more than \$500 nor less than \$200. On conviction of a second or subsequent offense, the court shall order the place where liquor is sold, furnished or given away, abated as a nuisance or bond the person convicted for \$1,000, not to violate the law. This goes into effect September 1, 1908.¹

By the enactment of those laws, the policy of the state in regard to the liquor traffic has been settled at least until the plan is fully tested. The people are to exercise the ancient and inherent right of local self-government in dealing with the question.

One good feature of the plan is that the special election separates the subject from partisan politics; another is that the campaign and election on a single issue of saloon or no saloon, secures the attention of the people to the one subject, induces voters to read, talk, consider and line-up on that issue; another is that when a majority is obtained against the saloon the prohibition is pretty sure to be reasonably well enforced.

Under these laws temperance sentiment is increasing. Prosperous prohibition towns help to win votes in other towns. It is possible to go right on and free the state entirely from the liquor traffic without further legislation, but it is probable that when the

¹Up to October 6, thirty counties had voted for no license and thus eliminated nearly 900 saloons. It is announced that twenty other counties are to vote upon the license question before January 1, 1909. The figures given below regarding the number of townships, villages and cities that have eliminated the saloon do not include the places that have voted "dry" since the 1st of September, 1908. —(Statement made October 7, by the Editor.)

work has progressed until a majority of the legislators are from "dry" counties short work will be made of the traffic by a general prohibitory law so worded as to be enforceable.

The most important question at present is, shall the work be pushed with ever-increasing vigor or shall it drag? Shall the Woman's Christian Temperance Union in a dry town or county rest from its labors and leave those less fortunate to work out their own problem, or shall all its unions redouble their efforts and work with increasing energy until every township, town and city, has a majority against the iniquitous saloon. A survey of the situation may help to decide this question.

By the last federal census (1900), Ohio had four million population, one-half living on farms and in villages of less than three thousand; one-quarter in towns of from three to five thousand and cities of less than fifty thousand. The remaining quarter in our five largest cities—Dayton, Columbus, Toledo, Cincinnati and Cleveland.

The increase of population is largely in cities, and at the present rate of increase it is probable that one-half or more of our population will be in our sixty-six cities by the next decennial census.

What has been accomplished by local option? Of our 1,271 townships 1,150 are dry, and of the 768 incorporated villages and cities 500 were dry in March, 1908. Under the Jones law many resident districts in our larger cities have gone dry. One-half our population is now free from saloons near their homes.

The saloon is not an irresistible power even in the largest cities. It merely requires more effort to get a majority, more time for educational work. Enough has already been accomplished to prove that with proper effort majorities can be secured against the liquor traffic in every city. Ohio has thirty-six towns with populations ranging from 3,000 to 5,000, viz :

Athens, Ashland, Barnesville, Bryan, Barberton, Bellevue, Bridgeport, Collinwood, Cresline, Cuyahoga Falls, Dennison, Delphos, Eaton, Greenfield, Hillsboro, Jackson, Kent, Lakewood, Lisbon, Logan, London, Madisonville, Marysville, Mingo Junction, Miamisburg, North Baltimore, Oberlin, Pomeroy, Ravenna, Shawnee, Shelby, Toronto, Uhrichsville, Upper Sandusky, Wapakoneta and Wilmington.

Of the above, Ashland, Athens, Barnesville, Greenfield, Hillsboro, Lakewood, Oberlin and Wilmington are dry.

The cities under 20,000 at last census were: Alliance, Ashtabula, Bellaire, Bellefontaine, Bowling Green, Bucyrus, Cambridge, Chillicothe, Canal Dover, Circleville, Conneaut, Coshocton, Defiance, Delaware, Elyria, East Liverpool, Fostoria, Findlay, Fremont, Glenville, Ironton, Kenton, Lancaster, Lorain, Martin's Ferry, Middletown, Mansfield, Marietta, Marion, Massillon, Mt. Vernon, Newark, Nelsonville, New Philadelphia, Niles, Norwalk, Piqua, Painesville, Portsmouth, Salem, St. Mary's, Steubenville, Sidney, Troy, Tiffin, Van Wert, Warren, Washington Court House, Wellston, Wellsville, Wooster and Xenia.

Of the above, Cambridge (now over 13,000 population) has voted dry twice; Glenville is dry, but part of Glenville has lately been annexed to Cleveland; Washington Court House voted dry, though great frauds were perpetrated at the election in the interest of the saloons; Xenia, now over 10,000 population, has voted dry twice. Mt. Vernon went dry and two years later went wet. It will be redeemed the next time. Wooster has recently voted "dry."

We have eight cities ranging from 20,000 to 50,000, viz., East Liverpool, which is dry, Sandusky, Lima, Hamilton, Zanesville, Canton, Springfield, Akron and Youngstown, everyone of which can be made dry, as East Liverpool was, under the Beal law, provided the proper methods are used and enough organized workers determine it shall be done. What has been accomplished in one or more may be secured in all of the others if proper steps are taken to educate against the saloon and to organize for the struggle.

The remaining cities are Dayton, having about 100,000; Columbus and Toledo, each expecting to show 200,000 in the next census; Cincinnati and Cleveland, each expecting to pass the one-half million mark in 1910. All except Dayton have dry districts under the Brannock law, and all have a patriotic citizenship that only needs to be reached and convinced of its duty to join the great movement for better things. The main difficulty is that so many people have been led to believe that it is hopeless to resist the power of breweries, distillers, wholesale liquor stores, and hundreds or thousands of saloons, with their money and their allies. That makes it hard to secure proper and sufficient organization to do the work. But in fact the proportion of liquor stores and saloons, and of saloon-

influenced voters, to the total population, is not much greater in a large city than in any other town.

It is a well-known fact that Ohio cities have about the same kind of people, about the same proportion in each of shop-workers, foreign-born, church members, drinking men, et cetera.

No town or city in the entire list is much more difficult to put into the dry column than Cambridge was when the Beal law passed. It has steel mills, tin-plate mill, glass factories, potteries, railroad shops, coal mines nearby, a brewery in the midst, a full proportion of foreign-born men.

One of two things will now come to pass.

If the temperance forces fail now to make the effort needed, fail to secure organization, the distribution of reading matter, and the house to house work, necessary to a rapid increase of temperance sentiment in our large towns and cities, the people will gradually settle down to a conviction that it is a hopeless task, and we will lose rather than gain in supporters, and perhaps witness the return of the saloon in many of the places now dry.

If, on the other hand, the temperance forces are alive to the present opportunity, and give the opposition no time to recover from the staggering blows lately given, if the up-to-date literature needed is produced and goes into the homes, and we promptly organize for greater victory, the end of the open saloon in Ohio is at hand. Without open saloons, scientific temperance instruction in the schools, untrammelled by school officials subservient to the liquor traffic, will soon make the great mass of our people total abstainers from intelligent choice, and end forever the traffic in and practice of using intoxicating drinks and other narcotic poisons.

GEORGIA

BY MARY HARRIS ARMOR,
President Georgia Woman's Christian Temperance Union.

After a hard fought battle the Georgia prohibitionists secured a county local option law in 1883. At that time our registration laws were so lax that there was practically no restraint upon the

ignorant, vicious and purchasable voter. Prohibition, too, was an experiment; so, at first, it was with great difficulty that a battle was won; but the battle being won the beneficent results immediately began to appear. More and better schools and churches were built, more people owned their homes, and those who had homes before improved them. Industries sprang up, the population increased and property increased in value. I have never known of a single instance where such results did not follow the exclusion of the saloon.

The law was so framed at first, that an election could be called every two years. This was changed after a few years so that an election could be called only every four years. Ample proof of the blessing that was conferred by voting dry is given in the fact that in twenty-four years, of the more than a hundred counties that "went dry" under local option, not more than a dozen ever called another election and not more than a half dozen of these repudiated prohibition. The few that did so, with the exception of two, called another election at the earliest opportunity and voted the saloon out forever. Others were preparing to do so when the passage of a state prohibition law—by a majority of 34 to 7 in the senate, and 139 to 39 in the house—rendered it unnecessary.

Our state prohibition law was the direct result of local option, for when we had 126 dry counties out of 146, it was an easy matter to elect a "dry" legislature. Thus local option brought to the people of Georgia a large measure of peace and prosperity, and ultimately state-wide prohibition.

THE WORK OF THE ANTI-SALOON LEAGUE

BY J. C. JACKSON,

Editor of "The American Issue," Columbus, O.

The methods of the Anti-Saloon League of America are so well known that it is unnecessary to dwell long upon them. The league, when fully organized in any state, maintains three departments of activity—agitation, legislation, and law enforcement. It is a federation of existing temperance organizations, including the churches, and of people belonging to no temperance organization. When political action is undertaken, it is through any party or body that may be available.

The league is in operation in forty-three states and territories. It maintains at present about 250 field workers, devoting all their time to its activities, and about 150 stenographers and clerks. The league has had in its service since its organization approximately 1,000 paid employees, either all or part of the time. This does not count the many thousands of ministers, speakers, organizers, temperance women, canvassers and others who have also helped and are helping under league direction. Of regular agitation meetings, chiefly on Sunday in the churches, with official speakers present, there are now held about 15,000 yearly. But this takes no account of the almost numberless meetings in prohibition, local-option, political, good-citizenship, and law-enforcement campaigns in which the league has a hand, either directly or indirectly, and omits meetings held by its regular or volunteer workers.

The league makes large use of periodical and campaign literature. Of this its various state headquarters have issued to date over 350,000,000 pages. "The American Issue," the national organ, sends approximately 300,000 copies per month to paying subscribers, while a number of the states also maintain state organs, with a paying subscription list ranging as high as 20,000 copies per week, with vastly increased circulation in campaign times. In addition, enormous quantities of temperance literature are published by individual members or friends of the league. It is the belief of the league that temperance laws and public sentiment should sustain

each other. Fully nine-tenths of all its efforts and revenues are devoted to the creation of temperance opinion.

In Alabama, at the first session of the legislature after the organization of the league in 1905, and largely by its help, the temperance people passed a county-option, an early-closing, and a statutory state prohibition law. The league then took part in twenty-two county-option contests, all of which went against saloons by majorities ranging from two to one up to twenty-nine to one. As a result of the state prohibition law, the whole state will become dry January 1, 1909.

The league organized in Arkansas in 1900 has been energetic in the local-option campaigns. Arkansas has seventy-five counties. In 1900 nineteen were voted dry. The elections take place every two years. In 1904 forty-five voted dry, in 1906 fifty-six voted dry, and in 1908 fifty-eight voted dry. The temperance people now poll by counties 20,000 majority in the state, and the next move of the league will be for state prohibition by popular election in 1909, which vote has just been demanded by the state Democratic convention.

Great temperance activity has prevailed in California since the formation of the league in 1897. From one county and a few supervisors' districts of anti-saloon territory there are now six counties under county-wide prohibition by supervisors' action, in six other counties approximately two-thirds are dry, and the saloon has been banished from possibly 100 municipalities by their trustees, all in response to recently awakened public sentiment.

Twenty-eight local-option elections have been held in the municipalities of Colorado since the entrance of the league into that state in 1904. The league has taken a leading part in all, and the temperance forces have won twenty-two out of the twenty-eight. In May of this year six large residence wards of Denver voted and the drys won by overwhelming majorities in four. Under the league leadership the Drake local-option law was passed in 1907, providing for ward, precinct and municipal local option. The precinct feature applies in rural districts, as well as in the municipality, and has had most encouraging results.

On account of its historic value the Anti-Saloon League of Connecticut retains its old name, the Connecticut Temperance Union, which was organized in 1865. The union participates in all the

political elections of the state in which questions of good morals are involved. It has handled all the reform legislation of the state, including the laws on probation, juvenile courts, reformatory, gambling, prize fighting, etc., as well as securing over 200 direct acts regulating the sale of intoxicants. Every year it engages in from forty to sixty no-license town campaigns. The operations of the union have doubled the dry territory of the state, some forty towns now being carried dry.

The District of Columbia League has co-operated with state leagues in defeating various obnoxious congressmen, and has helped the national league officers and legislative department represent the league before Congress. Ever since its formation, in 1893, it has maintained a steady war before the excise board against all vulnerable saloons of the district. As a result, the number of licensed places of all sorts has been reduced, notwithstanding the growth of Washington, from 1,100 in 1892 to 668 at the present time, or according to population, from one to every 218 in 1892 to one to 511 this year.

The league assisted in the local-option battle in Delaware in 1907, taking an active part in choosing the legislature which passed a law providing for district local option, and afterward assisted in making two of the four districts of the state dry.

Florida formed its league in 1907. Eight counties have voted under the county-option law of the state since that time, with the league participating in the campaigns, and seven of these have gone dry. Florida has now thirty-seven entirely dry counties, four that are all saloon territory and five that are partially saloon territory. There are but fifteen saloon municipalities in the state, and the number is being steadily reduced.

The Georgia league was organized in 1905. In the first half of 1906 the league aided in the election of temperance members of the legislature, and through its representative sought for a state-wide prohibition measure. It was, next, the principal agent in arousing the state to immediate action, with the result that the present prohibitory law of Georgia was secured. This year the league has worked for the election of a legislature pledged to prohibition, with the result that of the members chosen, two to one are in favor of a dry state. The leagues engaged meanwhile in four county option law elections, in all of which it won.

The Iowa league, formed in 1903, has defeated one obnoxious governor and cut down the majority of another from 80,000 to 10,000. Laws have been obtained subjecting express and freight offices handling C.O.D. liquor packages to mulct tax, which to a large extent has operated prohibitively; forbidding selling liquor within one mile of an army post and limiting duration of petitions of consent to saloons to five years, all petitions expiring in 1911. Seventy-three Iowa counties are without saloons and thirteen with but one. The league has greatly contributed to this result.

After strenuous previous efforts the Illinois league succeeded in getting a law passed in 1907 providing for local option by townships and municipalities and for precincts in counties not under township organization. In the spring election of 1908, out of 1,250 townships voting, 900 abolished the saloon; of the 1,400 townships in the state, 1,053 are now dry. Twenty-five entire counties were voted dry, making a total of thirty-six dry counties in the state. Of the forty larger cities voting upon the question, twenty-two were carried by the anti-saloon forces, the largest being Rockford, with a population of between 40,000 and 50,000, where fifty-three saloons were compelled to close their doors.

The Moore remonstrance law, passed under league leadership in Indiana three years ago, is in effect local option by majority petition of voters in townships and city wards, the township including all incorporated towns, but not cities. There are now in this state forty-three county-seat towns, twenty cities, 250 incorporated towns, and twenty-three counties which are dry; 819 of the 1,016 townships of the state are dry, and in addition, in the wet cities are fifty-three wards and thirty-seven residence districts dry, thus making a net population of 230,000 living in dry territory in cities which are partly wet. There are 1,579,775 people of the state living in dry territory. Six hundred saloons have been closed since the beginning of the year. Eighty per cent of the territory now grants no license. The dry territory of the state has been more than doubled under league work.

The Kentucky Anti-Saloon League began operations in 1905, when the state local option committee simply changed its name. Largely through the efforts of the league the county unit law was passed in 1906, as a result of which counties now vote as a whole. The common carrier law was passed in 1906, prohibiting the trans-

portation of liquor to dry territories. In the legislature of 1908 the law passed prohibiting distilleries from making sales to any except licensed dealers. Since June, 1906, thirty-nine counties have voted dry, in all of which campaigns the league, by its officers and organized churches, has taken a prominent part. As a result of its efforts, with the co-operating temperance forces, ninety-four counties out of 119 in the state are without a saloon. In the first thirty-seven campaign elections led by the Anti-Saloon League thirty-five went dry. There are only fifty odd places in the state where liquor can be sold. Seventy-seven per cent of the population lives in dry districts and 98 per cent of the territory is under no license.

The anti-saloon organization of Kansas is the old State Temperance Union. League workers went to the aid of the union in 1905-06, inaugurating league methods, since which time prohibition in Kansas has been increasingly a success. Thirty-five counties of the state now have empty jails and thirty-seven counties have no criminal cases on the docket. Forty-four counties are without a single pauper and twenty-five counties have no poor-houses. The state has \$145,000,000 in its banks, or \$83 per capita, and pauperism is practically unknown. More recent reports raise the per capita to over \$100.00. Leavenworth, on the Missouri border, is the only city where there is an open saloon. The authorities are moving, and soon Leavenworth will be dry.

The league has been in operation in Louisiana but a short time. It finds the temperance situation good. Of the fifty parishes (counties) in Louisiana, thirty are dry, and in a number of others there is but one saloon to the parish. Three-fourths of the state is in dry territory and 40 per cent of the population. Mansfield voted out the saloons in the latter days of last year (1907) by a majority of nine to one. The wet parishes are small in area for the most part, and the per cent of dry territory is large.

The Anti-Saloon League of Maine, organized in 1907, sought for the defeat this year of an avowed resubmissionist as the candidate for governor in the dominant party. The result was the nomination by acclamation of the anti-resubmission candidate. The efforts of the league are directed to strengthening prohibition in all lawful ways.

The Anti-Saloon League of Maryland is the old Maryland State Temperance Alliance, in operation for about thirty years, but

reorganized and renamed recently. Of the twenty-three counties of Maryland ten are absolutely dry, one on the eastern shore having been carried dry this year under a special law secured. Three counties have saloons in only one place each, two more are nearly dry, six have some dry territory, and only two are wholly wet. Baltimore City has some dry territory. In all these dry sections the league or its predecessor has been the main active temperance agent.

The Massachusetts league has aided in defeating a number of liquor candidates for the legislature and other offices, and has helped secure improvements in the express laws, screen laws, and abutters' laws, all of which have increased the restrictions on the liquor traffic. The league aids in the yearly local-option elections of every city and town in Massachusetts to the extent of its power. About two-thirds of the towns of the state are now under no-license, and seventeen of the thirty-two cities of the state are no-license, including Lynn, Cambridge and Worcester, the three largest cities of the United States dry under local option.

The Michigan League, formed in 1897, has secured a large number of local acts and ordinances, closing saloons in many villages and townships in the state. This year for the first time it made its entrance into the county option contests in an effective way. Only one county at the time was dry. Fourteen voted and ten went dry, closing 265 saloons and two breweries. Local victories elsewhere closed forty saloons, so that the whole number exceeded 300. There are at present eleven dry counties, embracing one-eighth of the state, and possibly 200 other towns or villages that have by special act or effort expelled saloons.

The Minnesota League, organized in 1898, has secured a good search and seizure law. It has steadily engaged in all the local-option or prohibition campaigns undertaken since its beginning. Twelve hundred of the 1,800 townships of Minnesota have now no saloons; 160 villages have voted saloons out, and one county is dry by village and township option.

Montana has no dry territory and practically no temperance laws, but the league began work last year and public sentiment is rapidly changing. The league will try to secure proper temperance statutes at the next session of the legislature in January and February, 1909.

The league, organized a few years since in Missouri, has been exceedingly active under the local-option law with a county unit, excepting cities having a population of 2,500, which vote independently. Of the 114 counties seventy-seven are now dry and ten other counties have but one saloon town each. The first four months of this year 308 saloons were closed.

The efforts of the New Hampshire Anti-Saloon League are devoted to the repeal of the present license law and to anti-license campaigns. Good work has been done by the league in these respects.

The New Mexico and Arizona Anti-Saloon League assisted in the campaigns of 1906 and 1907 against licensed gambling as an adjunct of the saloon. The result was most successful. The league has been handicapped by the Arizona law, requiring a two-thirds majority to vote out saloons, which it is expected that the next legislature will change. Various counties of Arizona have already given a majority against saloons, as Maricopa County, in which Phoenix, the capital, is located. When the law is changed half the territory will go dry. New Mexico has yet no local option law, but the league has taken votes in various towns in the great Pecos Valley and has secured large majorities for the closing of saloons. Action, however, is optional with town councils. The league will move for a local-option law at the next legislature.

The Nebraska league has been actively engaged in every campaign for temperance in the state since its organization. As a result of temperance operations twenty-one counties are wholly dry, while in thirteen counties there is but one wet town. There are twenty-two dry county seats. There are about 1,000 towns in Nebraska, about 150 being merely post offices and railroad stations. Over half the remainder, or 450 towns, are without saloons. The league has secured laws labeling packages in transit containing intoxicating liquors, so that their contents shall be known, establishing the venue of the sale of intoxicating liquors, and prohibiting saloons within two and one-half miles of the United States army post.

The Anti-Saloon League of North Carolina was organized in 1902. In 1903 the Watts law was passed, by which prohibition was given to the rural districts and local option to municipalities on petition of one-third of the voters. In 1905, largely through its agency,

the Ward law was passed, strengthening the Watts law and forbidding saloons in towns of less than 1,000 inhabitants. In 1907 additional legislation was obtained strengthening previous enactments. Under these laws, of the ninety-eight counties in the state sixty-eight became no-license and thirty granted license. In January, 1908, the league, with other temperance organizations, asked for statutory prohibition. The legislature passed an act to this end, to go into effect January 1, 1909, if ratified by the people. The election was held May 26, 1908, the vote being 69,000 wet and 113,000 dry, or a dry majority of 44,000.

The New York Anti-Saloon League was formally organized in 1900. During the past five years the league has succeeded in defeating every measure sought by the liquor dealers. In three cases it has secured the veto of the governor after bills by the liquor people have passed both houses. Favorable legislation has been secured as follows:

1. The "Stranahan amendment," depriving citizens of the right to begin proceedings to revoke a liquor tax certificate, was repealed.
2. The Page "Prentice law" was passed. This has suppressed over 1,800 counterfeit hotels, thus greatly lessening immorality and crime.
3. The Whitney "search and seizure law," providing also for mandatory imprisonment of liquor-law violators.

Some other minor amendments to existing laws have been secured. Each year the league has assisted in from sixty to two hundred local-option campaigns in the towns of the state. A net gain of forty-six towns has been won in the past five years, which would equal 1,656 square miles, or a strip of land seven miles wide, from Albany to Buffalo.

The New Jersey Anti-Saloon League, organized about six years ago, has carried on strenuous legislative campaigns in several counties, with some victories. As a result of the general temperance uplift in the state, caused by the league's work, better legislation has been secured with regard to liquor selling on Sunday, selling to minors, and selling to drunkards. A few towns in the state have local option by special charter from the legislature. These are all dry.

Previous to the organization of the league in Oregon the legislature and the referendum in 1904 passed one of the best local-

option laws in the country. In 1906 the people sustained the law by increased majority of almost 10,000. The league began operations in Oregon about this time and has taken a leading part in the local-option contests since. This year, of the thirty-three dry counties in Oregon, twenty-one have voted entirely dry, seventy precincts in other counties are dry, and five college towns in the state do not have a single saloon.

The Ohio Anti-Saloon League, organized in 1893, has secured the following liquor laws or amendments: In 1902, a municipal local-option law; an exemption from prosecution of state witnesses who testified in liquor cases, with other minor laws. In 1904 was passed a residence district local-option law, and also provisions for temperance challengers and inspectors in local-option elections. In 1906 the blind-tiger and speak-easy law and the Jones residence district local-option law. In 1908 the liquor nuisance law, a law forbidding private clubs in dry territory, and also preventing C.O.D. shipments of liquor; a law forbidding persons under sixteen years of age being employed in liquor houses; the juvenile-court law, and a county-option law were secured. Under these laws about 1,155 townships out of 1,371 are dry, about 500 villages and cities are dry, and 425,000 people live in the residence districts of cities that are dry territory. No county-option elections have taken place yet (they begin this fall), but under former laws four counties are dry.

The league in Oklahoma and Indian Territory was organized from previously existing bodies in 1907. These, with assistance from the National Anti-Saloon League, had secured prohibition for the Indian Territory for twenty-one years, it being part of the new State of Oklahoma. Next, the constituent bodies carried on successfully an election for temperance delegates to the state constitutional convention. The convention submitted state-wide prohibition to the votes of the people by eighty-nine to fifteen, and prohibition was adopted by a popular vote of 130,000 to 112,000, the league managing the campaign. At the same time a campaign for the election of a governor and legislature, in sympathy with prohibition, was carried on successfully. As a result the present Billups prohibition law of Oklahoma was passed March 24, 1908.

The efforts of the Pennsylvania league for the past four years have been directed toward the obtaining of a state local-option law, and steady progress toward this result in the obtaining of legisla-

tive support by an increased vote in each session has been obtained, though as yet the bill has not been passed. In the session of 1907 the six liquor bills reported were all defeated. The league has devoted large attention to preventing the issuance of licenses. One county, Greene, is dry, and there are several hundred dry townships and a few dry boroughs.

The Rhode Island league has taken part in all the elections of state officers, whose duties were related to temperance laws. Legislation has been secured, largely through league agency, (1) relating to druggists' licenses; (2) to club licenses; (3) an additional law passed in 1908 limits the number of licenses to one for every 500 inhabitants, prohibits saloons within 200 feet of public or parochial schools, and prohibits the sale of liquor to women and minors; (4) a law has also been secured closing saloons on Christmas, election and labor days. The league has engaged in fifty-three local-option campaigns, in nearly all of which it has held its own. Fifteen of the thirty-eight cities and towns of the state grant no licenses.

The Anti-Saloon League of South Dakota was organized in 1896, just after the wreck of prohibition at the polls. It rescued local option and a number of valuable temperance measures from that wreck. At each succeeding legislative session it has secured additional anti-saloon measures, until South Dakota, according to the declaration of its supreme court, is in effect a prohibition state, saloons only being permitted by a majority vote in cities, towns or townships, and then but for one year, a permissive majority having to be secured each year, all territory being dry until saloons are voted in. Unless a majority is secured at any election for saloons the territory reverts to prohibition. Of the sixty-four counties in the state, thirteen are entirely dry, and of the 136 towns and cities, forty-two are without saloons.

The South Carolina Anti-Saloon League was created in February of this year. Its work so far has been confined to agitation and organization. But one municipal campaign has been undertaken, a fight in the City of Union, S. C., for temperance city officers, in which the league won in every ward and carried the election of mayor by 131.

The Tennessee Anti-Saloon League was organized in 1899. The elements which composed it had previously secured the extension of the four-mile law to towns of 2,000 inhabitants, which meant

that intoxicating liquors could not be legally sold within four miles of such places. A liquor amendment, however, made this provision operative only upon action of the town. Under this provision twenty-eight towns took advantage of the law by reincorporating against saloons, and fifty-five other towns, without charters, incorporated against saloons. In 1903 the Adams law was passed, extending the provisions of the former law to towns of 5,000 inhabitants and under. Under this law forty-three more towns in the state excluded saloons, leaving saloons in only twelve counties in the state out of ninety-six counties, and in only fifteen places in Tennessee. In 1907 the league championed the Pendleton bill, which extended the provisions of the previous law to cities of 150,000, with the result that all the towns and cities in the state save five reincorporated, thus abolished the saloons, leaving saloons in only four counties out of ninety-six. At the present time, as a result of the combined temperance operations in which the anti-saloon league has taken a leading part, ninety-two counties of Tennessee out of ninety-six, or 95.8 per cent, with a population of 1,665,232, are under prohibition. Four counties with a population of 335,384 still retain the licensed-saloon traffic.

The Texas Anti-Saloon League was organized June 1, 1907. It has engaged in five county local-option campaigns, in which four were successful. It lent assistance in the Calcasieu Parish campaign in Louisiana, which was carried for prohibition by almost 2,000. It has taken an active part in the present campaign in Texas for a prohibitory amendment to the constitution. It has availed itself of local-option sentiment everywhere. Of the 243 counties of Texas, 152 are entirely dry, sixty-six are partially dry, in a number of which there is only one saloon, and twenty-five permit the sale of liquor.

The league of Utah and Wyoming was organized in December of 1907 and January of this year. It has secured the co-operation of the Mormon and all other church organizations of Utah. In both Utah and Wyoming the league is working for county local option, with excellent prospects of success at the coming legislature. If gained—and Utah will without doubt secure it—good judges predict that as a result Utah will be dry in three years. Sufficient influence has been exercised by the league in at least one town to prevent councils granting liquor licenses.

The Vermont Anti-Saloon League, formed in 1898, has sustained prohibition candidates in the elections, as against license nominees, with fair success. The main work of the league has been engaging in local-option contests, in which it has taken part in nearly every close town in the state every year. Largely as a result of its operations the prohibition vote of the state has been increased on local issues from a license majority in the whole state of 5,222 to a present no-license majority of more than 7,000. In 1903 there were ninety-two wet towns; in 1904, forty; in 1905, thirty-four; in 1906, twenty-nine; in 1907, thirty, and in 1908, twenty-seven—a steady diminution each year except one.

The Virginia Anti-Saloon League, formed in 1901, was one main agent in obtaining the Mann law in 1903, which closed nearly 800 saloons in rural districts within two years. This has been reinforced by the Byrd law. The league has been active in temperance campaigns. The present status of the temperance situation in Virginia is, that eighty-six counties are without saloons, and 135 out of 152 towns are dry, and also nine out of nineteen cities.

The West Virginia Anti-Saloon League was organized in 1902. Its fight has been to hold the dry counties under the local-option law and increase the number. Largely as a result of its operations, starting with twenty-four dry counties in 1902, in which the law was poorly enforced, with the "speak-easy" and "C.O.D." business everywhere, West Virginia now has thirty-three dry counties, the express companies refusing C.O.D. shipments of liquor, and the laws are well enforced. There are this year 500 fewer United States liquor taxpayers than last year, and several counties where there is not one. West Virginia now has the most drastic Sunday-closing law in the United States, an anti-saloon league measure.

The Wisconsin Anti-Saloon League, organized in 1897, has taken part in the elections of the state in the interest of securing legislatures favorable to temperance measures. The league framed and secured the passage of a law to ascertain the action of the towns, cities and villages on license, which has been of great value to the work. It has also helped to enact various items of temperance legislation and aided in preventing any legislation during the years of its history in favor of the liquor interests. Recently the league has secured a law requiring the authorities to revoke the license

of a dealer convicted of violating the excise law. The league materially assisted, after a hard fight, in defeating thirty-seven legislators in 1905, who had voted against the residence district local-option bill, the league measure. This measure, as a consequence, was enacted in 1907 without opposition. The league also secured the defeat of an obnoxious United States senator. There has been a steadily increasing number of dry cities, villages and townships since the league was organized. Out of 1,454 cities, villages and townships, nearly 800 are dry.

The Washington league has been but recently organized in an effective form. Its chief legislative measure, a local-option bill, was defeated by a vote of forty-three to forty-four in the Washington legislature a year ago, but the result has been that the saloons in the cities of the state, including Seattle, Tacoma and Spokane, which openly violated the Sunday-closing law, have been compelled to obey it. There is very little dry territory in the state. The fight is now on for a local-option law.

Lack of space forbids any detailed mention of the political campaigns in which the league has engaged for the election or defeat of candidates favorable or unfavorable to temperance measures. Beginning with Ohio, with its defeat either for renomination at the conventions or at the ballot-box, of upward of 100 legislators unfavorable to temperance measures, and its overthrow of Governor Herrick, previously elected by 113,000, by upward of 42,000, for having weakened the residence county-option law, together with a large amount of other most effective election work, a like record is measurably true of nearly every state organization of the league, according to the time it has been in operation. The work of the league at the primaries and the ballot-box has, in the great majority of instances, preceded the enactment of its measures in the legislative bodies of the various states. It is conservative to say that, including the elections of state officers, legislators and local officers having to do with temperance matters, thousands of victories at the polls have recorded the influence of the anti-saloon league.

As to the effectiveness of the league's legislative efforts, but a single note need be added to the above list of its reform measures secured, namely, the record for the winter of 1907-08, as given in "Truth," the official liquor organ of Michigan, which says:

During the past winter about 2,500 bills on the temperance question were considered by about thirty legislatures, with the Anti-Saloon League leading the fight on behalf of the temperance forces of each state. It is a significant fact that not a single favorable liquor bill was passed anywhere in the country.

Over twenty legislatures passed measures favorable to the temperance forces. As much space as this article occupies would be required to give an adequate presentation of the law enforcement work of the league in the various states. With but perhaps half a dozen exceptions each state league maintains an active department conducted by experienced lawyers, co-operating with municipal and county officers, for enforcement of liquor statutes and ordinances. In various states, as, for example, Oklahoma and Connecticut, enforcement officers of the league have also been made officers of the state, or vice versa. In nearly all the states the law-enforcement department is in closest touch and co-operation with the state and local officials. Returns under our hand, as we write this article, show that the league has been leader or assistant in over 31,000 cases of law enforcement during its existence, while the annual number is increasing each year.

It is by no means to be understood that the anti-saloon league has been alone in the accomplishment of the foregoing results. It has largely entered into the labors of preceding and of contemporaneous temperance organizations. The Woman's Christian Temperance Union has been at work since 1874; the Prohibition party, with its vast output of literature and effort, was established in 1869; a score or more of temperance societies, some of them having as high as 150,000 members, have been in operation since 1808; additionally, the Christian clergy of the land, now over 150,000 in number, and those chief temperance organizations, the Christian churches, have, since the days of Lyman Beecher and before, been sowing the seed of temperance. The Anti-Saloon League has but supplemented this vast previous preparation with its own multitudinous meetings and literature, and utilized all by its methods. It came in the providential fullness of time, to be in large part the executive arm of power of the temperance sentiment of the nation thus created through a preparatory century. The league is not a separate society. It is simply a federation of existing temperance agencies to the extent that they are willing to co-operate with each other

As a result of these united efforts, in which the league has been the principal bond of late years, there is to-day a population of 26,000,000 in the United States in territory dry by local option, 4,000,000 population in territory dry by federal or local decree, and 7,319,000 under state-wide prohibition, while 41,233,000 persons yet remain in wet territory. Some 38,000,000 population is, therefore, under one form or another of prohibition—nearly one-half the population of the United States. In the Southern states 17,000,000 out of 27,000,000 are in dry territory.

THE ANTI-SALOON LEAGUE AS A POLITICAL FORCE

BY W. M. BURKE, PH.D.

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There are but two methods of accomplishing reforms where the action of others is necessary for success. Either the will of these others must be influenced by persuading them that the change is right, or they must be forced to take certain action because it is best for their own welfare. When a moral reform is started, its method is always that of persuasion, but the time always comes when persuasion has accomplished its purpose, and the cause of reform is abated; or it is seen that the method is useless because it is too slow; or enough people have been convinced by this method to make a use of force hopeful.

As in other reforms, the agitation and effort to curb the vice of drunkenness began by persuasion and with the individual. A hundred years ago, men began signing pledges in order to bolster up a weak will, and then set about organizing societies and persuading others to join and sign pledges. Many confirmed drunkards were reformed, and with a true missionary spirit they began to induce others to follow their example. In the United States, seventy years ago, so great was the work done by these reformed drunkards—mainly by platform lectures—that thousands of men and women were persuaded.

Thirty years later, another great wave of persuasion was started, slightly different because it aimed, not at the drinker himself, but at the man who sold the drink. Moreover, it was the women, for the most part, who never drank at all, who were most active. Their method of persuasion was to appeal to the saloon keeper in a public way, through his religious instincts and his family affection, by praying and singing hymns in his place of business or on the sidewalk before it, and by personal solicitation for the sake of his mother's memory or his wife and children, or because of the injury to his customers and their families. This method was successful, in many cases, in persuading the saloon keeper to give up the business, but its greatest success lay in the

fact that out of it grew an organization whose sole purpose it was to combat drunkenness through persuasion. The Woman's Christian Temperance Union has never seriously attempted anything but to persuade children to shun intoxicants, drinkers to give it up, men in the business to get out of it, or legislators to legislate against it. In the hands of this organization, the moral suasion method has been remarkably successful, and the present attitude of the public is largely due to its incessant propaganda.

The first attempt to substitute compelling force for moral suasion is to be found in the formation of a political party with a single plank in its platform, viz., the prohibition of the manufacture and sale of intoxicating liquors. Its avowed object was to put its own candidates in office, pass the necessary laws and enforce them. Many of the leaders in this movement believed it to be hopeless, but expected to gain adherents enough to hold the balance of power. In some cases, this was accomplished, and the old parties were forced to take account of the prohibition vote. The best recognition they could force from either of the old parties was the statement in the platform of the Republican party, in one national campaign, that "That first concern of all good government is the virtue and sobriety of the people and the purity of the home. The Republican party cordially sympathizes with all wise and well-directed efforts for the promotion of temperance and morality." The work of the Prohibition party has been very largely the same as that of other temperance organizations, viz., the changing of the attitude of the people toward drunkenness and the licensing of the liquor traffic.

As a result of all this agitation, and the public sentiment adverse to the saloon, the trade began to protect itself, entrenching itself behind state laws, and for this purpose made a very effective political organization. There was no organized political opposition, and as a result they held the balance of power between the parties. They had early learned that party affiliation must be secondary to trade protection. These liquor men knew neither Republican nor Democrat, but were well acquainted with the attitude of every candidate of both parties on the question of the continuance of the business. The one most friendly got the votes of all. Where both were friendly, the exigencies of politics were allowed to decide without interference. It rarely or never happened that all candidates

were hostile, for the control of caucus and convention was a part of the game. Through the resulting control of the legislatures, favorable laws were passed and hostile bills were smothered in committee or killed by amendment and "joker." The following, clipped from the San Francisco "Call" illustrates the political methods of the liquor traffic's political organization:

The California Liquor Dealer's Association has recently adopted resolutions which, after declaring that the association is composed of retail liquor dealers who have organized for mutual protection for the purpose of guarding their business against unjust discrimination, go on to declare in effect:

1. That the association is opposed to local option.
2. The association declares itself opposed to Sunday laws and ordinances of every kind and character.
3. That it is in absolute opposition to increasing the existing license tax.
4. That it opposes any legislation against the combined grocery and bar.
5. That it is opposed to any change in the present laws unless the change be first approved by the association.

For the purpose of making their opposition effective in the city campaign, the association has appointed a committee of five to see all the candidates and to propound to them the following questions, requiring a direct and unevasive answer:

1. Do you understand the purpose and principle of the California Liquor Dealer's Association?
2. Are you opposed to any of its expressed declarations?
3. Are you friendly or unfriendly to the retail liquor trade?
4. Would you, if elected, vote for an ordinance or amendment to any law in opposition to the expressed wishes of the association?
5. Will you, if elected, support the declarations of this association, as they have been read to you?

The Anti-Saloon League was organized to combat the political organization of the liquor traffic. It was believed, and the event has largely proven it true, that in most communities there were more anti-saloon than there were pro-saloon votes, and if the great mass of anti-saloon votes could be organized, the power of the saloon in politics would be broken.

The natural starting point was the church, for here was already an organization, which, by ideal and aim, by tradition and leadership, was in direct and absolute opposition to everything the saloon was doing. It was already recognized that if the church was right, the saloon was wrong, and that the church must overcome the saloon or eventually be overcome by it. The great obstacle had been that

the saloon did not go to the church, and it was contrary to church tradition and policy for the church to go where the saloon was, viz., into politics. Church forces finally found the answer to the problem thus presented in an agency more or less organically combined with the church, and in its organization rather indirectly responsible to the church which could go into politics and could in time organize and concentrate the votes of the church men and the independent anti-saloon vote against pro-saloon candidates. The organization of the church was effected by having delegates from the different denominations meet in convention and elect a board of trustees. This board of trustees outline the entire policy for the league. They elect an executive committee which is, in reality, a board of strategy, and also a superintendent who is the leader or general of the forces in the field. He appoints his subordinates or district leaders throughout the state. This is the state organization which does the actual work. The board of trustees meet once a year or oftener, while the executive committee meets at least once a month, and in the heat of a campaign will be found meeting very much oftener.

The superintendent has two main things to do—he must keep in active touch with the churches by addressing them at their regular services and having his district leaders do the same, collecting from these churches the funds with which to carry on the campaign. He must, also, at the same time, be ready to counteract any political move of the enemy, and actively carry the war into the enemy's camp. He must be a diplomat, keeping all the churches good-natured and in active sympathy with him, and he must also be a keen politician in order that he may not be tricked and fall. He finds his greatest bulwark and his greatest asset in publicity. He has taken, generally, this motto—that the politician can beat him if he approaches the politician on any side but in front,—and the political boss has not yet worked out a method of meeting a frontal attack. This means that publicity is the greatest weapon with which the Anti-Saloon League fights. They follow the suggestion of Abraham Lincoln that "If you turn a searchlight into a rat hole, it is spoiled for rat purposes." Some mistakes have been made in finding such men for the position of superintendent, but mistakes have been remedied, and a more astute, cleaner, wiser body of men, both as diplomats and as politicians, cannot be found in the country to-day. They

will insist upon refusing to go into a secret conference with politicians. They will let the full church body, which is their army, know everything which is going on. They have nothing to conceal, for they realize that in this policy is their real strength. The politician cannot understand this, for his whole stock in trade heretofore has been secrecy; fooling the people; taking into his confidence only a very few, and making deals and trades.

The people, at first, did not understand this plan of the Anti-Saloon League, but the more they understand it the more strongly will they adhere to the league and give it, not only their moral and political, but also their financial support.

Another source of strength of the Anti-Saloon League is its insistence at all times upon the principle that a man need not leave his party permanently. It is usually sufficient if he leaves his party in a single campaign for a single candidate, for if enough of them in any one district will vote for a candidate upon the opposite party ticket, the next time that candidates are nominated for that office they will find that there will be a man on their own ticket whom they can support. In other words, the representatives of the league emphasize this one point, that not until men are willing to forsake their party in at least one campaign, and vote for a man who is personally distasteful to them, who does not belong to their church and their lodge, and who stands right, instead of a man on their own party ticket who perhaps belongs to their church, belongs, perhaps, to all their lodges, and who is a personal friend, but who stands wrong—until that time comes, the united church forces cannot win anything. But when that time does come, they can get from any deliberative body anything that they choose. It is only by showing the people that this has been the method of the liquor men for forty years, and proving to them that this is the reason the liquor men have won, that anything in the United States has been accomplished by the league.

The league realizes that it can be defeated this year, and the next and the next, but if it keeps up its fight along its own lines it cannot be defeated in the end. It has been found that the political boss must win every time in order to keep his position, and just as soon as the league can get enough men of one party to forsake a candidate in that party once and elect his opponent, that moment the boss is discredited and a new leader must rise to take his place;

but in the meantime, the league has won. The people have come to see that the saloon vote is largely a bugaboo; that if they stand up squarely and face it the power is not so great as was supposed. This is illustrated by a case in an eastern state—a member of the assembly had voted with the liquor men whenever the opportunity was afforded; but the league, while it had made no fight in his own district, had carried on an active campaign in other counties in the state, and had won. This man said to the superintendent of the league: "While I am no more of a Christian than I was last year, while I drink just as much as I did before, you have demonstrated to me that the boasted power of the saloon in politics is a myth, and you have also demonstrated that there are more anti-saloon votes in my district than there are saloon votes; therefore, I will stand with you, both with my influence and vote, if you will give me your support." The wisdom of this move was proven by the event, for he was given support and won, while his colleague from the same district, who took the opposite view, was defeated. Politicians in legislatures have for years, and in some legislatures do still believe that there is no real power that can elect them to office except that of the liquor men. They have been so long elected by that element that they refuse, oftentimes in the face of evidence, to believe that the independent anti-saloon vote is worth counting. But when you have once proven it to such a man, and he finally understands the nature of the power of the Anti-Saloon League, you have made a friend, even though he is a drinking man himself. The fact is, the Anti-Saloon League has never insisted that a candidate whom they are supporting shall be a total abstinence man. They go upon the principle, to put the matter in an extreme light, that it is better to have a drunkard in a deliberative body who will vote right than to have a saint who will vote wrong.

The league acts upon another principle—that when the ordinary American citizen knows the condition of affairs absolutely, he can be trusted to do the right thing. This was most clearly, and in a most spectacular manner demonstrated in the campaign against Governor Myron T. Herrick, of Ohio. Although Governor Herrick had been elected the first time by 114,000 majority, and although he was supported by about 12,000 saloonkeepers and 175 brewers and distillers of the state, in spite of the fact that President Roosevelt, of the same party, had received a majority of 255,000 in

the State of Ohio, nevertheless, when Governor Herrick refused to stand by the measure which the united church forces, in the person of the Anti-Saloon League, was backing with all its strength, he was defeated by 42,000 votes. The reason for it was that the independent anti-saloon voter of the State of Ohio was appealed to directly. He was told all of the facts, by speakers, by literature and by the press. The ministers themselves took up the fight in a very definite way, and the independent voter decided the question for himself. This same thing, on a smaller scale, has been taking place in every state in the Union, and men who have guessed that the people will stand by them if they stand by the liquor element have, in thousands of cases, guessed wrong.

As to political methods of the Anti-Saloon League, the first and one of the most important is its adaptability to circumstances. It is not a party, and, furthermore, refuses to become a part of any party, depending upon the circumstances of the particular campaign and of the particular community to be appealed to. Its first effort in any particular campaign is to get a candidate of the dominant party to stand for its measure, and every effort is made to bring this about. If it fails, it will go to the party which stands next in numerical strength and endeavor to make terms with them for a candidate who will stand right. Generally, it is successful. If not, there is a third party, and in many cases the Anti-Saloon League has taken up a prohibition candidate and has elected him as against both political parties. A case in point is that of Daniel R. Sheen, of Peoria, Ill., who, in the face of overwhelming odds, almost without a following, was elected over both the Democratic and Republican candidates to a place in the lower house of the Illinois legislature.

The Anti-Saloon League has learned well the lesson which the political organization of the liquor traffic has taught it, viz., that in order to win victories it must hold the balance of power. This it is doing in many states, and because of this it has compelled all parties, in many of the states, to nominate candidates who are in favor of the measures advocated by the Anti-Saloon League. There was a time in the history of the reform when not a single politician would appear in an office of the Anti-Saloon League; but that time has long since passed, and now there is not an Anti-Saloon League office in any state but has visits from the politicians of all parties who are either seeking aid from the league or promising

aid to it. A single instance will show the truth of this. In one district in an eastern state where the league had made a fight against a candidate for the assembly before the primaries, the leader of his party, hearing that the Anti-Saloon League would bring out an independent candidate in case this man was nominated, came to the office of the Anti-Saloon League and said to the superintendent: "If you will promise me not to bring out an independent candidate, I can assure you that the candidate whom you are opposing for the nomination will not be nominated." The superintendent said to him: "I am willing to do this, but as an evidence of your good faith call off the attack of the papers in that county upon the Anti-Saloon League." He said: "That will be done to-morrow," and the next day, although the party papers in the county had been very violent in their attacks upon the league and very partisan in their support of this candidate, they came out with articles and editorials directly opposite. The result was that at the county convention this candidate received only 29 votes out of 141, and the man who was favorable to the league measure was nominated in his place and voted for the measure in the succeeding legislature.

Another example of this holding of the balance of power is shown in the case of Newark, N. J., where eleven candidates for the assembly were nominated in Essex County, and every one of them, both on the Democratic and Republican tickets, was pro-saloon. The league made a protest, and succeeded in nominating eleven independents in that county, and although they had but two weeks to make the campaign, nearly ten thousand votes were polled for their candidates with the result that though that county was normally republican, the election was thrown into the hands of the Democrats, and as a result of that, Senator Dryden was not returned to the United States senate. It is such instances as this that prove that when the anti-saloon people are organized, even though they do not win elections themselves, they will prove to the parties that candidates must be selected who are favorable to the league measures.

The league never undertakes to have any opinion upon any question except those concerning the saloon. Candidates may be for one thing or for the other, and in one district the league will support a man who is in favor of a measure not connected with the saloon, while in the district adjoining it is supporting a man opposed

to that same measure, provided both are right on the measures advocated by the league. It is because of this well-known principle and strict adherence to it that anti-saloon voters have learned to respect the judgment and recommendation of the league.

The league never goes back on its friends who are seeking a re-nomination or re-election; its first duty is to protect those friends and re-elect them, understanding that in this way only, can it keep its strength and gain new adherents among legislators. However, where there are two candidates who are favorable, the league never makes a choice, even though sometimes this leads to the charge of forsaking candidates who are friends, and sometimes even leads to the defeat of friendly candidates because of the division of votes, while the liquor vote is solid for a single opponent. In the long run, the candidates will be favorable to the league because of this attitude. It is simply the element of loyalty which, oftentimes, political parties forget.

The league has learned that it is impracticable to depend upon verbal promises from candidates, and that even written and signed pledges oftentimes remain unobserved by candidates after election. When there is doubt in the case, or a man has no record made in the legislature or other deliberative body, it becomes necessary to have a strong written pledge from the candidate who wishes the support of the Anti-Saloon League. Where this is refused, or an evasive answer or no answer is given, the candidate is counted unfavorable. Better, however, than any written pledge is the record made by a man when in office, and that record weighs much more in obtaining a recommendation from the league than does even a written pledge. The league has often been criticised for this, but it is merely following the success which has been achieved by politicians upon the other side for decades. On the other hand, when a man has promised and has failed to fulfil that promise after the election for which the league has endorsed him, if he seeks a re-election, usually no amount of pressure brought to bear upon the league will secure a second recommendation.

After the election, the work of the league is to see to it that the measure which the united church forces wish enacted is carried through. This means constant lobbying at the legislature. A representative of the league is found in every legislature in the country, and it is his business to watch the measure and aid its

rapid movement from the time of its introduction until it finally becomes a law. This requires keen judgment, quick thinking and a knowledge of parliamentary law and of political tricks. The weapon with which he fights in the lobby is publicity. He must depend upon the people at home, and it is his duty to inform the people in any particular district what the attitude of their representative is; who is responsible for the amendment which will kill the bill; who is responsible for holding it in committee and thereby strangling it; who is responsible for its being sent to an adverse committee; and in general, to circumvent all of the tricks by means of which bills are usually killed by an adverse minority. He urges upon the people of any district to get into communication with their representative and urge him to proper action upon the bill; and many instances are recorded where legislators have received hundreds of letters and telegrams and telephone messages in a single day when adverse action has been feared on their part, with the result that they have been favorable. The Anti-Saloon League lobbyist never forgets that publicity is his weapon, and that a full knowledge of conditions at the legislature must be given to the people of the state. He well knows that there is nothing a legislator fears more than the knowledge on the part of his constituents that he is either betraying them or acting contrary to their wishes. Of course, there are no underhanded methods used nor was there ever charged any sort of bribery or other illegitimate method on the part of an Anti-Saloon League lobbyist. The reason is mainly that the character of the league worker forbids any such methods, and secondly, that his constituents are men who will not continue their support to such methods. It is a fair fight on the principle, or the league does not enter it.

The methods of the Anti-Saloon League have been eminently successful in obtaining the end sought, and the reason is not far to seek. Public sentiment has been rising for a hundred years against the saloon, and the attitude of more than a majority of men has been changed from one of tolerance, at least, to one of hatred to the open saloon. There are now between four and five hundred men whose time is wholly engaged in the crystallization of this sentiment into action. They are picked from every walk in life because of their qualifications as to integrity, diplomacy and political leadership. Let any question have the support of the entire

evangelical church; then organize this force for action; put into the field four hundred and fifty keen, bright, able men; let them draw their support from the millions who are in favor of the object proposed; and you can create and organize sentiment enough to accomplish almost any purpose desired. That is what is happening in the political arena to-day as against the open saloon. It is merely the united church forces in action.

THE WORK OF THE NATIONAL WOMAN'S CHRISTIAN TEMPERANCE UNION

BY LILLIAN M. N. STEVENS,
President.

The Woman's Christian Temperance Union is an organization of Christian women banded together for the protection of the home, the abolition of the liquor traffic and the triumph of Christ's Golden Rule in custom and law. It is the lineal descendant of the Woman's Temperance Crusade of 1873, and is now the largest organization of women in the world.

In 1873 the women of the crusade gathered in the streets to pray and to beseech saloon keepers to give up their business, and in two months, in upwards of 250 towns, the liquor traffic ceased to exist. Ohio was the crusade state. Prominent among the old crusaders were Mrs. Elizabeth J. Thompson, Hillsboro; Mother Stewart, Springfield; Mrs. George W. Carpenter, Washington Court House.

As an outgrowth of the crusade the National Woman's Christian Temperance Union was formed in Cleveland, O., in 1874. The Woman's Christian Temperance Union is now organized in every state and territory, the District of Columbia, and in more than 10,000 different localities. It is distinctively a total abstinence society, and it is not only anti-saloon but anti-distillery and anti-brewery. Its breadth is indicated by its motto, "For God and home and native land." Its badge is a small bow of white ribbon and its declaration of principles is as follows:

We believe in the coming of His Kingdom, whose service is perfect freedom, because His laws, written in our members as well as in nature and in grace, are perfect, converting the soul.

We believe in the gospel of the Golden Rule, and that each man's habits of life should be an example safe and beneficent for every other man to follow.

We believe that God created both man and woman in His own image, and therefore we believe in one standard of purity for both men and women, and in the equal right of all to hold opinions and to express the same with equal freedom.

We believe in a living wage; in an eight-hour day; in courts of conciliation and arbitration; in justice as opposed to greed of gain; in "peace on earth and good-will to men."

We therefore formulate, and for ourselves adopt the following pledge, asking our sisters and brothers of a common danger and a common hope, to make common cause with us, in working its reasonable and helpful precepts into the practice of everyday life.

I hereby solemnly promise, God helping me, to abstain from all distilled, fermented and malt liquors, including wine, beer and cider,¹ and to employ all proper means to discourage the use of and traffic in the same.

To confirm and enforce the rationale of this pledge we declare our purpose to educate the young; to form a better public sentiment; to reform, so far as possible, by religious, ethical and scientific means, the drinking classes; to seek the transforming power of divine grace for ourselves and all for whom we work, that they and we may wilfully transcend no law of pure and wholesome living; and finally we pledge ourselves to labor and to pray that all these principles, founded upon the Gospel of Christ, may be worked out into the customs of society and the laws of the land.

The 10,000 local unions composing the National Woman's Christian Temperance Union have been the chief factors in state campaigns for statutory prohibition and constitutional amendments, and for securing the enactment of other reform laws, especially those for the protection of girls. It began the movement for scientific temperance education in the public schools, having been instrumental in securing laws to that end in all the states, and besides this it has secured congressional legislation, by means of which all the territories and the District of Columbia are brought under the same beneficent statutes.

The work of the National Woman's Christian Temperance Union for peace and arbitration, for the children in Sunday schools, loyal temperance legions and kindergartens; its efforts to influence college students and to train and organize young women for a philanthropic life; its evangelistic work for non-churchgoers, railway employees, soldiers, lumbermen, miners, and especially for the drinking men of all classes, have proved its comprehensiveness and the tirelessness of its energy. Its efforts to reach the pauper and the prisoner, to establish reformatories and homes for the wretched victims of inebriety and their suffering children, and its temperance flower mission, must appeal to every heart.

¹State and local constitutions can include the words "as a beverage," if desired.

It also strives to redeem outcast women from a slavery worse than that of chains, and by better laws to secure protection to women and girls from the outrages of brutal and designing men. It has been active in raising the age of consent in nearly every state in the Union, and its influence is being strongly felt in the purification of our literature and art.

The National Woman's Christian Temperance Union Convention is held annually in some large city. The convention of 1907 was held in Nashville, Tenn., in November. Some of the most important features of the convention were enthusiasm over the frequent announcement of recent prohibition victories, immense evening audiences, gifts and pledges at one of the evening meetings amounting to about \$7,000, the presence of Confederate veterans on the platform at demonstration night, the speech of General A. S. Daggett on the army canteen, the enthusiasm created for Y. and L. T. L. work, the large number of life and memorial members received, the welcome to the new prohibition states, Oklahoma and Georgia, and the jubilee over what white ribboners and L. T. L.'s did "to cause to come to pass."

Some of the leading efforts at the present time are to retain the "anti-canteen" law, to secure the passage of the Littlefield or Bacon bill, to banish the sale of liquor from all government buildings, to secure state laws forbidding the sale of liquor within three or four miles of soldiers' homes, forts, army camps, etc., to interest all teachers and pupils, especially in normal schools and colleges, in scientific temperance instruction, to secure at least \$2.00 from every local union, or its equivalent, from the state, for the Frances E. Willard Memorial Fund, to complete the raising of \$10,000 for an emergency fund, to increase total abstinence practice and sentiment and to promote the prohibition of the liquor traffic everywhere.

The World's Woman's Christian Temperance Union was organized in 1883. It exists in fifty-two nations with a membership of more than half a million. Frances E. Willard, its founder, and the first eight "around-the-world" missionaries, were instrumental in its establishment. The officers of the World's Woman's Christian Temperance Union at the present time are: The Countess of Carlisle, president; Mrs. L. M. N. Stevens, vice-president-at-large; Miss Agnes E. Slack and Miss Anna A. Gordon, honorary secretaries; Mrs. Mary E. Sanderson, honorary treasurer. The officers

of the National Woman's Christian Temperance Union at the present time are: Mrs. Lillian M. N. Stevens, president; Miss Anna A. Gordon, vice-president-at-large; Mrs. Susanna M. D. Fry, corresponding secretary; Mrs. Elizabeth Preston Anderson, recording secretary; Mrs. Sara H. Hoge, assistant recording secretary; Mrs. Susanna M. D. Fry, acting treasurer.

The basic principles of the Woman's Christian Temperance Union are total abstinence and prohibition. Prohibition is the logical associate of total abstinence, and the Woman's Christian Temperance Union believes that the temperance reform, in order to go steadily and successfully forward must use as propelling forces both these oars. The National Woman's Christian Temperance Union teaches that alcohol is a poison; that its use breaks down the physical nature and harmfully affects the blood, the nerves, the heart, and makes the drinker an easy prey to disease. It also teaches that alcohol attacks the moral nature, and its use causes an increased need of institutions for the dependent, the delinquent and the criminal classes.

It is estimated that at least 600,000 business and public Woman's Christian Temperance Union meetings are held in the United States each year. The teaching and preaching at these meetings are along the lines of prevention, education, reformation and legislation. This society secures more petitions than any other in the world. It is estimated that not fewer than 20,000,000 signatures and attestations have been secured by the Woman's Christian Temperance Union, including the polyglot petition, addressed to the different governments of the world, asking them to do away with the manufacture of and traffic in alcoholic liquors, opium and the legalization of impurity. This petition has been presented to the President of the United States, to Queen Victoria, and the Governor-General of Canada.

The National Woman's Christian Temperance Union keeps a superintendent of legislation in Washington during the entire session of Congress, to look after reform bills. It also maintains a Woman's Christian Temperance Union missionary at Ellis Island, to meet the incoming foreigners. Fully 250,000 children are taught in the Loyal Temperance Legion the reasons for total abstinence and are trained as temperance workers. The Woman's Christian Temperance Union has created a great literature. Each of the

forty superintendents of departments sends out large amounts, and the several states distribute millions of pages annually.

The "Union Signal," the official organ of the National Woman's Christian Temperance Union, is owned and published by the society. It is a sixteen-page weekly and has an extensive circulation in every state and territory and in foreign lands. The "Crusader Monthly" is the official organ of the Loyal Temperance Legion. It is a sixteen-page monthly, having a large and constantly increasing circulation. Forty-three state organizations publish papers devoted entirely to Woman's Christian Temperance Union interests.

The part the Woman's Christian Temperance Union has taken in the recent campaigns which have brought state-wide prohibition to Georgia, Oklahoma, Mississippi, North Carolina, Alabama and Arkansas is well described editorially in the "Oklahoma State Capital:"

The women organized for prohibition.

Prohibition was their soul's desire.

They cared not for the political features so long as they in no way interfered with their fight for the prohibitory clause.

Even those who were opposed to the prohibitory measure must view with admiration, and applause even, the steadfastness, vigor, and ability with which the fight was carried on by the women.

The organization formed working committees all over the state, and the marching of the children with banners through the streets of the towns and cities had a telling influence.

After all, men must admit that the women wield a mighty influence in the politics of State and nation.

A gifted Georgian has said, when speaking of the great work of the Woman's Christian Temperance Union in so many different lines, that after all the most potent is "the tender mother in the quiet seclusion of her home as she gathers her children about her and kneels in humble prayer to the all-wise Father."

The Woman's Christian Temperance Union was never so strong numerically and in other ways as at the present time. The indications are that it will go on and on with its God-given work until the victory is complete; and it is to be completed! The day of national prohibition "is nearer than when the Woman's Christian Temperance Union first believed."

ORGANIZATION AND ACCOMPLISHMENTS OF THE
WOMAN'S CHRISTIAN TEMPERANCE UNION IN
ILLINOIS, MASSACHUSETTS, NEW YORK, NORTH
DAKOTA, OHIO, AND VIRGINIA.

ILLINOIS

BY MARY E. KUHL,
President.

The present day work in the Illinois Woman's Christian Temperance Union is largely for law enforcement, wiser legislation and better morals in civic affairs.

More careful thought is being given to the training of the children and young people in total abstinence principles, in scientific temperance and purity; for we well know that the trained worker is needed to meet present conditions and voice the advanced thought on the "drink problem." No less attention is given to the teachings of a sober, clean life and its relation to the social, political and commercial interests of the nation, as well as that pertaining to the physical and moral life. That which has humanity value in it is of supreme moment in the economic and world problems which are woven and interwoven with this great prohibition cause. Illinois has had splendid victories this year, and is now working for a state prohibitory law that will banish the saloon not only from towns and counties, but from the entire state. Already 3,000,000 of her population of over 4,000,000 are living on prohibition territory. Thirty-five counties of the 102 are entirely dry, sixty-six partially dry, and the forces are moving on with great enthusiasm.

MASSACHUSETTS

BY KATHARINE LENT STEVENSON.
State President.

The Massachusetts Woman's Christian Temperance Union was the direct outgrowth of the great "woman's crusade" which swept over the nation in the memorable winter of 1873 and '74, changing so permanently the entire nature of temperance work. The crusade never took on as large proportions in the east as in the west, nevertheless it was very active in some parts of New England and in Worcester, Massachusetts, it assumed almost the fervor and intensity it had in Ohio and Illinois. One of the most prominent leaders in the City of Worcester was Mrs. Susan S. Gifford, a saintly Quakeress, who led the forces into many thrilling scenes and who was chiefly instrumental in calling together the organizing convention which met in Worcester in October, 1874, a month prior to the organization of the national body. Mrs. Gifford was chosen president with practically a unanimous vote. She held the position for one year only.

The woman who was chiefly instrumental in the firm establishment of the Woman's Christian Temperance Union in Massachusetts was Mrs. Mary A. Livermore, then in the zenith of her power and fame. With a national and international reputation as one of the most brilliant platform speakers, in a day when the lecture platform was a power in the land, she nevertheless threw herself with all the enthusiasm of her nature into this new, struggling movement. She had first come into touch with the Crusade while on a lecture tour in Ohio, and did much to remove eastern prejudice by sending letters, during that entire winter, to the papers of Boston and the state. When she returned east she gave a graphic description of the movement in one of Boston's largest and most influential churches. From that time until the day of her death her voice, her pen and all her magnificent powers were always at the command of the Massachusetts Woman's Christian Temperance Union. At the second annual convention, held in Boston, in October, 1875, she was elected state president, which position she held for ten consecutive years. It is largely owing to her wide range of vision,

her quick sympathies and keen intellectual powers that the Massachusetts Woman's Christian Temperance Union was built upon so solid and so broad a foundation. Closely associated with her as state secretary during those years was Mrs. L. B. Barrett, a woman of great executive ability, who gave of herself unstintedly for more than ten years, until her death.

From the first some of the most noted names in the National Woman's Christian Temperance Union have been those of Massachusetts women. Mrs. Mary Clement Leavitt, first round-the-world missionary, was a Boston white ribboner; Mrs. Mary H. Hunt, leader of the scientific temperance forces for so many years, was another; Mrs. Helen G. Rice, for eighteen years the leader of the National Loyal Temperance Legion, is the state recording secretary. Mrs. Susan S. Fessenden, Dr. Louise C. Purington, Mrs. Mary G. Stuckenberg, Miss Eva K. Foster, Miss Lella M. Sewall, Miss Elizabeth P. Gordon, Miss Harriot T. Todd and Mrs. Harriet D. Walker are also among the past and present national workers of repute.

Following Mrs. Livermore, as executive officers of the state, have been Miss Elizabeth S. Tobey, who served for six years; Mrs. Susan S. Fessenden, eight years, and Mrs. Katharine Lent Stevenson who is just completing her tenth year as state president. The corresponding secretaries have been, after Mrs. Barrett, Miss Elizabeth P. Gordon, Mrs. Katharine Lent Stevenson, Mrs. Esther T. Housh, Mrs. Ruth B. Baker, Mrs. Harriet D. Walker, Mrs. Harriot T. Todd and Mrs. Janette Hill Knox. The present recording secretary, who has served for more than twenty years, is Mrs. Helen G. Rice, and the treasurer, Mrs. Isabel A. Morse. The work is centralized at state headquarters, 14 Beacon street, Boston, where the corresponding and office secretaries may always be found and where the president spends much of her time when not engaged in field work.

The organization is established in the larger part of the towns and cities of Massachusetts, there being at the present time about two hundred and fifty local unions. The counties are organized, their presidents being vice-presidents of the state. There is also an efficient corps of state superintendents who carry on work in the following departments: Work among foreigners, health and heredity, medical temperance, scientific temperance instruction, Sunday-

school work, temperance literature, institutes, the press, anti-narcotics, school savings banks, medal contest work, evangelistic, almshouse, penal and reformatory work, work among railroad employees, soldiers, sailors and lumbermen. Other activities are indicated by the following designations: Sabbath observance, mercy, purity, purity in literature and art, mothers' meetings, co-operation with missionary societies, social meetings and red-letter days, flower mission, settlement work, fairs and open air meetings, legislation, Christian citizenship, franchise, peace and arbitration. The superintendents of these departments, together with the general officers, the vice-presidents and the secretaries of the Young Women's and Loyal Temperance Legion Branches constitute the state executive committee. Regular meetings of this committee are held twice each year and at the call of the president when special occasion demands. The annual convention is held in October, and there is usually a state institute held in connection with the mid-year meeting of the executive committee. Each county holds at least two conventions each year and the majority hold three. These, taken in connection with the regular and special meetings of two hundred and fifty unions, are enough in themselves to make the Woman's Christian Temperance Union a powerful generator of public sentiment.

The most successful of department endeavors are the Frances E. Willard Settlement, founded by Miss Caroline M. Caswell, which, for ten years, has been doing a great work at the west end of Boston, and the Flower Mission, the largest in the world, which has reached its great proportions under the leadership of Mrs. S. W. Simpson. Twice in the history of the state it has entertained the national and twice the world's conventions. The last world's convention was held in Tremont Temple, Boston, in October, 1906, with delegates from twenty-one different nations. It was a brilliant success and has been a great power in its influence upon the work in many lands.

It is impossible to tabulate the work which has been accomplished. From the very first the organization has been active in legislative work throughout the state and has been instrumental in securing many good laws, as well as successful in its efforts against the passage of many bad ones. The law making compulsory the teaching of the physiological effects of alcohol and other narcotics

in the schools of the state was passed in 1885. An effort to amend it in 1898 and '99, was not successful, but a movement, inaugurated by the state president, to bring about a closer and more harmonious working between the educational and temperance forces has met with marked success and the law is being better carried out, both in spirit and in letter each year. The law raising the age of consent for girls was passed through the work of the Woman's Christian Temperance Union. It was at first raised from 12 to 14,—though the petition asked for 18,—later, through the efforts of the society, it was raised to 16. The law forbidding the sale or gift of tobacco to minors was also brought about by this same indefatigable conservator of the home, as was the law against the sale of alcoholic confectionery. In the more recent campaigns against patent medicine frauds, the Woman's Christian Temperance Union has taken the lead and, though not securing all that was asked for, there has still been a substantial gain in that direction. The Woman's Christian Temperance Union led in the great fight for a prohibition amendment to the constitution in 1888, and has not failed in any of the years since to raise its voice in opposition to the liquor traffic under any guise.

The greatest social forces are those mighty, yet invisible ones which go to the creating of public sentiment. The very fact that, for thirty-four years, a body of women ten thousand strong, has stood in Massachusetts "for the protection of the home, for the abolition of the liquor traffic and for the triumph of Christ's golden rule in custom and in law," is, in itself, a potent force and a prophecy of speedy triumph. Tens of thousands of children have passed through the Loyal Temperance Legion in these years, educated in the faith that "the saloon must go" and they must help to make it go. We have not the record of the vast majority of these children. Doubtless many of them have forgotten their early training and fallen victims to the very foe they pledged themselves to fight, but we have indisputable proof that a great multitude of them is standing for temperance. One of the chief workers in the Anti-Saloon League of the state to-day, a lawyer of repute, was a Loyal Temperance Legion boy. An official at the state house is another. From all over the state and nation we receive the good tidings of the noble manhood and womanhood which is coming on to work for "purer manners, better laws," because of the principles engrained in their

very being through the work of the Woman's Christian Temperance Union. Every other temperance society in the state cheerfully acknowledges that its own work would be sadly crippled if the Woman's Christian Temperance Union were to pass out of existence. The more than 18,000 majority for prohibition at the last Massachusetts election may, we believe, in some large part, be traced to our past and present efforts. The Massachusetts Woman's Christian Temperance Union will continue to work, without fear and without flinching from the straight line of duty, until the glad day of complete triumph over the liquor traffic.

STATE OF NEW YORK

BY FRANCES W. GRAHAM,
President.

The state organization was perfected on October 14, 1874, but the movement in the state began on December 15, 1873, when the women of Fredonia, N. Y., were moved to action by an address delivered by Dr. Dio Lewis. They began what is known the world over as the "Woman's Crusade," out of which came the present organization. The keynote for future work was struck at the first state convention, and many of the lines under which systematic work is being done to-day were then named as the topics for discussion and adopted as the future plan of work.

The first legislative work done was the presenting of memorials to President Grant and Governor Dix. The latter was memorialized by the local organization. The National organization formed in the following November was asked to present a similar petition to the President.

The first convention was marked by deep spiritual power, and no step was taken without the manifest guidance of the Holy Spirit. During the years that have passed since then this same guidance has been sought, and each year has found us farther on the way.

In 1894 a brief history of the first twenty years' work was compiled by the corresponding and recording secretaries, Mrs. Frances

W. Graham and Mrs. Georgeanna M. Gardenier, with a preface by the president, Mrs. Mary Towne Burt. This book of about one hundred pages gave in condensed form the chief efforts and accomplishments of the state organization. Much time and thought were spent in perfecting it, and it has proved a valuable hand-book for the workers during the fifteen years since it was compiled.

At the first annual meeting a form of pledge was appended to the constitution then recommended for local unions, but this form was used for a few years only, and in 1878 it was changed to read as follows:

"I hereby solemnly promise, God helping me, to abstain from all distilled, fermented, and malt liquors, including wine, beer and cider, as a beverage, and to employ all proper means to discourage the use of, and traffic in, the same."

In 1879 the words "as a beverage" were omitted, and the above pledge, with this change, is the one which is recommended to all local unions, and has stood so from 1879 until the present day. This is known as the "iron-clad" pledge.

Work among the children and young people was early recognized as one of the most important lines, and after years of faithful effort we can look back to the time of seed sowing, and forward to a rich and bountiful harvest yet to be, while we recognize with gratitude the fact that the present temperance agitation is but the rich fruitage of the work done in early days among the children and youth of our land. Homes have been founded on temperance principles, where the total abstinence pledge has safeguarded the boys and girls from temptation. Many a preacher of Christ's Gospel to-day learned his first temperance lesson in the juvenile society, later known as the Loyal Temperance Legion. Our young women and young men have, through our Young Woman's Branch learned not only the value of total abstinence in their lives and homes, but also the value of purity—and a "white life for two" has made the foundation of the home sweet, strong and true.

At the present time we have between thirty and forty different lines of work, each in charge of a specialist, all of which by whatever name called, center in the two cardinal principles of the organization—"total abstinence for the individual and total prohibition for the state and nation."

As early as 1877 a memorial had been prepared relative to tem-

perance teaching in the public schools, but not until 1884 was a law secured. The petitions circulated received nearly 60,000 signatures. In 1882 a petition with 10,431 names was presented to the legislature asking for a prohibitory constitutional amendment and a second petition was presented in 1883. From that time until the present the organization has continued to work along legislative lines, and the following will give some idea of the efforts put forth in our "do-everything policy" and of the good attempted and accomplished:

Scientific temperance instruction in public schools.

Prohibition of the giving or sale of cigarettes to boys under sixteen years.

Law raising "age of protection" for girls from twelve to sixteen and then to eighteen years.

Successful protest against the introduction of the English bar-maid system.

Successful demand for the enforcement of the law which prevented society women from serving liquor at Langtry tea.

Curfew laws through ordinances in at least seventy-five villages and cities in the state.

Assisted in securing the bill giving tax-paying women the right to vote in towns and villages on propositions submitted to tax-payers.

Erection of drinking fountain on the Pan-American grounds.

Maintenance of Mary Towne Burt free bed in the National Temperance Hospital in Chicago.

Assisted in securing anti-canteen law in national congress.

Prohibition of the sale of liquor on state and county fair grounds.

Prevented legislation looking to legal opening of the saloons of New York on Sunday.

Assisted in securing the passage of the bill prohibiting the sale of liquors in government buildings and at Ellis Island.

In 1900 the State Woman's Christian Temperance Union had a bill drawn up and presented to the legislature, to provide for local option in cities. Every year since then a similar bill with changes and modifications, has been introduced through the efforts of the Anti-Saloon League; in the effort to secure its passage the State Woman's Christian Temperance Union has heartily co-operated.

In every campaign for "no license" the Woman's Christian Temperance Union has been an important factor.

Thirty-four state conventions have been held in as many years and the thirty-fifth will be held at Poughkeepsie, October 2d to 6th, inclusive. From a small beginning the membership has increased until now it numbers nearly 30,000, each year showing an increase in achievement as well as in membership. Every county is organized and under most efficient leadership. Our official organ, "Woman's Temperance Work," has grown to be a necessity as one of the tools with which to do our work, and in addition to its influence in that particular, it has for many years been self-sustaining through its subscription list.

Our annual report covers about 300 pages of closely-printed matter, and a file of these reports is a temperance encyclopedia, without which we could not carry on our work. In addition to these helps, the state issues a hand-book which is of great value to the local workers. We have about 1,000 local societies, each auxiliary to its own county organization, all of them auxiliary to the State, National and World's Woman's Christian Temperance Unions by the payment of dues, divided according to the constitution. The local union is the foundation upon which the entire organization stands, and while some must of necessity be chosen as leaders, and all such are more or less prominent, yet it is only by the faithful consecrated efforts of the rank and file that this work has been accomplished and our cause advanced.

That there is still need of the Woman's Christian Temperance Union in the Empire State goes without saying, and so long as a single legalized saloon does business within its borders, the women will stand by the pledge adopted at Fredonia in 1873, which reads:

"We pledge ourselves to *united* and *continuous* effort to suppress the traffic in intoxicating liquors, . . . *until this work be accomplished.*"

NORTH DAKOTA

BY ELIZABETH PRESTON ANDERSON.

The State Woman's Christian Temperance Union is an integral part of the national organization. Its general officers correspond to those of the mother organization and are members of its annual convention. Its president is a vice-president of the National Woman's Christian Temperance Union and a member of its executive committee. While each state carries out the plans of the national organization, the greatest freedom is allowed in the origination of plans and methods of work. The states are at liberty to adopt or reject such departments as they choose from the forty departments of work undertaken by the National Woman's Christian Temperance Union. In questions concerning state policies which do not conflict with the principles of the national organization, each state is a law unto itself.

The Woman's Christian Temperance Union of North Dakota was originally a part of the Territorial Woman's Christian Temperance Union of Dakota. This organization, under the leadership of Mrs. Helen M. Barker, was an important factor in securing constitutional prohibition for the new states of North and South Dakota.

When, in 1889, the Territory of Dakota was divided and two states admitted into the Union, the Territorial Woman's Christian Temperance Union was divided at the convention held at Yankton, South Dakota, Miss Frances E. Willard and Miss Anna A. Gordon being present, and the Woman's Christian Temperance Union of North Dakota was organized with Miss Addie M. Kinnear president. After four years of faithful service, which resulted in failing health, she was succeeded by the writer, who is still serving in that capacity.

The new organization was launched in the midst of a prohibition campaign, and its history has been a series of campaigns for the retention and enforcement of the prohibition law and the securing of other laws for the protection of the homes and youth of the new commonwealth.

The greatest work accomplished by the Woman's Christian

Temperance Union of North Dakota is the work that cannot be tabulated. The greatest forces in this organization, as everywhere in the universe, are the silent unseen forces. The unit of power which stands back of the local, county and state organizations is the local union, usually a little company of women banded together for the destruction of the liquor traffic and the protection of the home. They study the literature of the organization, broaden the horizon of their own lives, and thus make truer, wiser, wives and mothers, and purer, happier homes; gather the children into Loyal Temperance Legions and etch upon their plastic brains the principles of total abstinence and eternal hatred of the liquor traffic. They build up in the community, by personal work, medal contests, circulation of literature, the use of the press, and addresses from national workers, a vigorous public sentiment that demands the enforcement of law. It is nearly all quiet work, much of it beneath the surface, but it is that which counts mightily in the building of the commonwealth. Without these local unions the state organization would be powerless. When an effort is being made to secure desired legislation, word is passed to the county and local unions. The question is agitated, sentiment is aroused, petitions, letters and telegrams besiege representatives until they realize that their constituents are awake and demanding action on their part.

The Woman's Christian Temperance Union of North Dakota has for eleven years owned its state paper, "The White Ribbon Bulletin," which was founded by the late Mrs. Mattie Van de Bogart, and is now edited by Mrs. R. M. Pollock. This paper not only gives the progress of the work in the state, but also serves as a medium of communication between the state officers and superintendents, and the rank and file of the local union. The state has adopted twenty-seven of the forty departments of the National Woman's Christian Temperance Union, beside the Young Woman's Branch and the Loyal Temperance Legion branches. At the head of each of these is a woman who is a specialist in her line, who receives plans and suggestions from the national superintendent of her department, and passes these with her own suggestions to the county and local superintendents. From their reports, which are sent in at the close of the year, she collates her report, to be presented at the state convention and sent on to the national superintendent.

For fifteen years the state organization has maintained a home

for needy women, where shelter, food and clothing, and what is more, love, and the bread of life, have been given to homeless, sorrowing, and sin-sick souls. Many of these have found peace in the forgiveness of their sins and have gone out to lead upright lives. Owing to the increasing demands of temperance work, this home has recently been turned over to the National Florence Crittenton Mission, which will continue to carry on the work.

There has been paid into the state treasury for state work over \$60,000. This does not represent the amount of money raised by the local unions, but merely what has been paid into the state treasury. Every active union raises for local work a much larger amount than it pays into the state treasury. Probably \$150,000 would be a conservative estimate of the money raised and expended by the unions of the state since its organization. The membership has increased nearly 300 per cent.

The state organization has usually kept its president at the capital city during the legislative assemblies. Thousands of signatures to petitions against resubmission have been secured, and also against the lottery during that memorable fight, and it is believed that the defeat of the lottery in North Dakota sounded its death knell in the United States. The following laws have been secured through the efforts of the Woman's Christian Temperance Union: Scientific temperance instruction in the public schools, physical education in the public schools, health and decency law, law defining intoxicating liquors, increasing the penalty for Sabbath breaking, and raising the age of consent to eighteen years. The organization has also been an important factor in securing a number of other laws, among them the law prohibiting impure literature, law prohibiting the sale of cigarettes or tobacco in any form to minors under sixteen, the amended druggist's law, and the repeal of the ninety-days' divorce law.

When the proposed constitutional convention was voted upon, which, if carried, would have given an opportunity to change the constitution by leaving out the prohibition clause, and which it was believed was the real purpose of the call, the Woman's Christian Temperance Union published an appeal to voters showing good reasons why such a convention should not be held at that time, and ten thousand of these were put into circulation. The proposition was defeated.

The Woman's Christian Temperance Union took the initiative in the fight against a candidate for re-election for governor who was not in sympathy with the enforcement of the prohibition law. Although he had been elected two years previous by a majority of 35,000 votes, he was defeated and a Democratic governor who was in favor of the prohibition law and its enforcement was elected by 7,000 majority. The State Woman's Christian Temperance Union has not hesitated to enter a political campaign when prohibition or any other great moral question was at issue. A fight was made in the primaries this summer against a candidate for United States Senator. His record in the state legislature for twenty years on temperance and moral questions was compiled and scattered broadcast over the state, and helped to make sure his defeat.

The Woman's Christian Temperance Union was instrumental in securing the organization of the State Enforcement League, upon whose executive committee are some of the leading business and professional men of the state, notably Hon. Robert M. Pollock, Mr. Frank Lynch, and Mr. R. B. Griffith. This organization has been a power for the enforcement of the prohibition law.

The Woman's Christian Temperance Union while preserving the integrity of its organization, has worked in harmony with the Enforcement League, the Good Templars, the Scandinavian Total Abstinence Society, the Prohibition party and the churches, and in this union of purpose and work has been the strength of prohibition in North Dakota.

OHIO

BY FRANCES H. ENSIGN,
President.

The first meeting of the Woman's Christian Temperance Union in Ohio was held on June 17, 1874. The organization was the outgrowth of the "women's crusade" against the saloon that began in 1873 and was pushed with vigor during that and the following year. The effective results of that crusade by which saloons were

eliminated from 250 Ohio towns and by which the advocates of the liquor traffic were prevented from repealing the "no-license clause" of the state constitution showed what could be accomplished by effective organization of the sentiment against the open saloon.

The Ohio Woman's Christian Temperance Union was the first state society formed; indeed, it antedates the national society, which held its first meeting November 19, 1874. The idea of a national Woman's Christian Temperance Union is said to have been originated by Mrs. Mattie McClellan Brown, who, together with Mrs. Jennie Fowler Willing and others, issued the call for the first national convention to meet in Cleveland, Ohio.

The activities of the Ohio Woman's Christian Temperance Union have been carried on continuously for thirty-five years, during which it has developed a highly effective association, including thirty-three departments of work, comprising educational, preventive, legal, organization, and evangelical activities. There are 26,000 members in the state. The state organ is the "Ohio Messenger," published at Columbus and edited by Lillian A. Burt. The circulation is ten thousand copies. During the present year the organization has printed and distributed from its state headquarters over one and a half million pages of literature.

The educational work of the society is largely responsible for the following results:

1. The enactment by the state legislature of a law requiring scientific instruction as to the effects of alcohol upon the human system.
2. The passage of a law raising the age of consent for the protection of young girls.
3. The enactment of four local option laws by which the electors of a township, a county, a city or a residential section of a city may prohibit the open saloon.
4. The present situation as regards the liquor traffic in Ohio, which is as follows: There are 1,150 dry townships, over 500 dry villages and cities and many dry residential districts within the larger cities. Twenty counties have banished the saloon and elections will be held soon in twenty more, under the new county option law. More than one-half of the population of the state is now living in dry territory.
5. The work of the society has laid the foundations for the

very effective activities being carried on by the Anti-Saloon League, the organization which is now leading in the enactment of laws for the ultimate elimination of the saloon.

VIRGINIA

BY SARA H. HOGE,
President.

The Virginia Woman's Christian Temperance Union, auxiliary to the National Woman's Christian Temperance Union, was organized in the City of Richmond in 1883. The constitution of the society states that the object of the organization is "to make permanent the work already accomplished by women in the temperance cause, and to inaugurate wise and effective measures for bringing to bear the moral and religious power of women against the cruelty and crime of the liquor traffic in our state."

In 1883 liquor was sold generally over the state in the country districts as well as in the towns and cities and freely used, and there were but a few women interested in the Woman's Christian Temperance Union. But by earnest work and careful presentation of the cause the organization has grown till now there is an active membership of about 4,000. With local organizations scattered over the state, working systematically to agitate and educate, it is small wonder that temperance sentiment has advanced, till social drinking is the exception rather than the rule in the Old Dominion.

In 1886 the state local option law was passed. From that time to this there has been a fierce contest between the temperance forces and liquor forces in trying to win and hold the territory. The state law allows a local option election to be held every two years, and many places avail themselves of this opportunity frequently, unless the question has been settled beyond all doubt.

In 1902 the state liquor law was amended by the Mann law, providing that before a license can be issued in towns and counties it must be proved:

1. That the place is "one at which police protection is afforded."

2. "That the majority of the qualified voters of the district or town are in favor of the application."

3. "That the sale of ardent spirits at that place will not be contrary to a sound public policy, or injurious to the morals or the material interest of the community."

Last winter the legislation was further amended by the Byrd law, which brought the small country distilleries under the provisions of the Mann law and made it illegal for social clubs to dispense liquor in territory where retail liquor licenses cannot be granted.

In securing these laws the women of the Woman's Christian Temperance Union have done much in circulating petitions among the voters of the state and in thus helping the legislators to "hear from home." The results show that their work has been most successful.

Through the local option elections and operation of the Mann and Byrd laws there are left but 850 saloons in the state, the majority of these being in Richmond, Norfolk, Newport News, Hampton and Petersburg. Of the 162 incorporated towns in the state only eleven have saloons. Thirteen others have dispensaries. Eighty of the 100 counties have no saloons in the country districts and fifty are completely dry. Eight of the nineteen cities have no legalized saloon.

In all the local option elections held where we have local organizations the women have done their part in the agitation. But the chief work of the Woman's Christian Temperance Union is educational—distributing temperance literature, holding public meetings, holding elocutionary contests with strong temperance and prohibition selections, using the press, and in every possible way getting the people to *think* on the evil of the drink habit and liquor traffic.

The subject of teaching, from a scientific standpoint in the public schools, the effect of alcohol and other narcotics on the human system was taken up, and in 1890, at the solicitation of the Woman's Christian Temperance Union, the State Board of Education made a ruling that wherever physiology and hygiene were taught, books should be used that included the physiological consequences of alcoholic drinks. In 1900 a state law was enacted which required this teaching to be placed along with reading, writing, etc.,

in the obligatory studies. No department of work is more far-reaching in its results than this public-school teaching of the boys and girls—our future citizens and homemakers.

To enlist the children as a working force our organization has a children's branch, known as the Loyal Temperance Legion. To become full members of this the children sign the pledge not only against the use of liquor but also against the use of tobacco and profanity. They have their own business meetings and help in the general agitation. They are especially effective in singing their temperance songs.

Among the accomplishments of the Virginia Woman's Christian Temperance Union the following may be noted:

In the early days of our state organization it secured the appointment of a matron for the state penitentiary. She has oversight of the women.

At the penitentiary and in many jails and almshouses evangelistic services are occasionally held under the auspices of some of the local unions. Visits to hospitals and soldiers and sailors on ships and in the barracks are also made.

Effective work has been done in Norfolk and vicinity by regular meetings at the barracks and on board ships in Hampton Roads. Many barrels of literature have been sent to the forts and placed on ships.

Great advance has been made in securing use of unfermented wine at sacrament in many of the churches.

In some sections of the state mothers' meetings are regularly held, where all discuss freely the best ways of bringing up the boys and girls to become true men and women.

In 1906 the special new work taken up by the state organization was the maintenance of rest rooms for soldiers and sailors at Phoebus. A good woman was in charge and made a home-like place to attract the young men, who otherwise might have frequented the many saloons bidding for their presence.

In 1907 rest rooms were maintained at the Jamestown Exposition. In these rooms was placed the National Woman's Christian Temperance Union exhibit, and a hostess received all visitors. One of the rooms had several cots, where tired women could rest. The other room was comfortably furnished with couch and chairs, where all were welcome. Much literature was distributed from this place.

In addition to the circulation of leaflets and other literature the State Woman's Christian Temperance Union publishes its own paper, the "Virginia Call," which keeps interested persons posted on general temperance news, and aims to strengthen and enlarge the work of the organization.

In educating against the *use* of liquor in the home as well as against the sale of liquor, the Virginia Woman's Christian Temperance Union hopes to make it easier to enforce the laws against its sale. Its work has not been very showy. It has been quietly and steadily preparing the way for state prohibition, and the society feels that the time has now come for the adoption of such a measure. With the larger part of the state "dry" under local option law, it would seem that the whole state should banish the curse of the liquor traffic from its borders. Indeed the day is not far distant when Virginia will follow the example of Georgia, Alabama, Mississippi and North Carolina.

THE SALOON PROBLEM

BY HUGH F. FOX,
Secretary United States Brewers' Association New York.

For the sake of brevity and simplicity, let us set aside the vagaries of the professional reformers and consider matters on a practical basis. I suppose we are all agreed upon these points:

That alcoholism is a serious evil which, like other social and physical evils, is largely preventable and to some extent curable.

That the facilities for the treatment of alcoholism are nowhere adequate; and

That the sale of alcoholic beverages must be subject to public regulation.

It is generally agreed by all trained students of government that the prohibition of the sale of such beverages has proved a failure. (No state has so far restricted the right of the individual as to forbid his use of them, nor is it an offence for him to buy them for his own use, even in a prohibition state.)

It must be conceded that most adults drink beverages containing alcohol, and that a considerable proportion of them do so habitually.¹ It is apparent that the majority of the consumers of alcoholic beverages are people of temperate habits, who do not differ from the mass of decent, law-abiding citizens in their personal conduct. It is also admitted that the people of our time are, on the whole, more temperate than those of any other time of which we have any comparative records, and that the general trend is constantly upward.

But with all this, the evils which spring from intemperance were never so well recognized as they are to-day. An instructed

¹According to the Committee of Fifty ("Physiological Aspects of the Liquor Problem") not more than twenty per cent of the adult males in this country are *total abstainers* and not more than five per cent are *positively intemperate*, in the sense that they drink in such excess as to cause evident injury to health. Of the remaining seventy-five per cent the majority, probably at least fifty per cent, of the whole are occasional drinkers, while the remaining twenty-five per cent might perhaps be classed as *regular moderate drinkers*. The committee does not claim reliability for these estimates, and it has certainly much underrated the proportion of *regular moderate drinkers*.

democracy is bound to become self-conscious and to develop a sense of social responsibility. As a practical people we have begun to take stock of ourselves and to count the cost of our own defects. We have learned that over-crowding spells tuberculosis, that bad water and poor drainage cause typhoid epidemics, that child-labor reduces vitality and efficiency—that these are among the tangible causes of poverty—and that extreme poverty causes intemperance and a whole train of other social evils. Incidentally we have learned—some of us—that these various causes act and react upon each other, and that intemperance and other evils are matters both of cause and effect.

Unfortunately, we have not, as a people, learned the value of thoroughness yet, and with child-like simplicity we insist upon an instant remedy, and hurry our lawmakers into immediate action as soon as any evil is brought home to us. Much of our recent social legislation has been hasty and ill-considered, and will have to be done all over again—when we have the leisure for it. Half-educated people are moved through their emotions, and the stimulus of such a hectic movement leads naturally to impetuous action rather than to the rational research and discriminating care which are the basic methods of a constructive system. Then, too, we still rely on legislation to correct our morals and regulate our personal conduct.

But I must not be tempted to take so wide a range. The point which I have been gradually coming to is, that the destruction of the saloon does not solve what is called the liquor problem. To quote from the last report of the trustees of the United States Brewers' Association:

The crux of the whole question is really this: Can the common use of intoxicants be prevented by abolishing their lawful sale? If not, the practical thing to do is to improve the system of regulating the places where they are sold, and to encourage the sale of those beverages which have the smallest amount of alcohol, while at the same time the work of popular education is continued along the lines of self-restraint and moderation in all things.

Control, and not elimination, is the key to the solution of the saloon problem. In all thickly settled communities the saloon is a necessary social institution. You cannot have a city without saloons. They may not be officially recognized and licensed, but they are there just the same. There are, however, good and bad saloons; saloons that serve the reasonable convenience of the people in decent and orderly fashion, and saloons that are centers of social disorder. There is nothing inherent in the saloon which need or

should make it disorderly or disreputable. The average saloon is conducted in as decent and business-like a fashion as a grocery store. In such places a disorderly person is a nuisance and is not tolerated. Unfortunately, there are in most of our large cities saloons that pander to vice, and some that are closely allied to criminals, if not to actual crime. These, though comparatively few in number, are easily magnified into the "saloon problem."

The best working solution for the social control of the sale of liquor that has yet been devised is the licensing system. To be successful, however, the license must be so conditioned that it insures stability in the business, and compels the licensee to regard obedience to law and order as essential to the continuance of his franchise. A permanent, consistent and stable public policy, which deals justly and fairly with the saloon-keeper, raises the character of the business and attracts to it men of responsibility. The uncertainty which is caused by constant legislative tinkering is demoralizing to any business, and reacts upon the men who are engaged in it. After all, the moral equipment of the individual is the best method of safeguarding both the men who frequent the saloon and those who manage it.

I wonder, sometimes, if any of us really know enough about the saloon to pass judgment upon it? Let us suppose that we are conducting an investigation, and that we have been able to summon the licensing authorities, the patrolman, the landlord, the brewer, the distiller, the bonding company, and the saloon-keeper himself. The obvious points, such as the number of saloons and their proportion to the population and the amount of the license fee, would be easily obtained. Let me suggest some other questions of practical importance. We will put the saloon-keeper on the stand.

Give the total, in cost and quantity, of your last year's purchases of the following articles, separately: Beer, whiskey and hard liquors, wine, cigars, carbonated water and soft drinks, and the materials for your free lunch.

What was your expense account? State the items of license, rent, wages, insurance, interest, taxes, repairs, and sundries. State the capital invested in furniture and fittings.

How much money did you take in, and what was your relative profit from beer, hard liquors, and cigars?

How many individuals do you serve daily?

How many of them come in more than once a day? What is the proportion of regulars and casuals?

How many men buy more than one drink per visit?

Is the lunch-counter a necessity, and to what extent does it attract custom?

What are your busy hours?

What is the average duration of time that your customers spend in your saloon?

How do your Sunday sales compare with other days? How does the business of Saturday night compare with other nights?

Do you give credit, and how much?

Do your bartenders solicit business? In other words, are men urged to drink?

How many of your customers do you know personally? How many of them live in your neighborhood?

Have you any back rooms or private places?

By whom and for what purposes are they used?

How many of your customers enter by side doors or passages? Would you lose much business if all of them had to come in publicly, and if all your business was transacted as openly as a grocer's?

What percentage of your business is done after eleven p. m., and on Sundays before one p. m.?

Do many of your customers visit nearby saloons? In other words, to what extent does your trade overlap your competitors?

What proportion of your customers are laborers and mechanics?

About how much money do your wage-earning customers spend, on the average, in your place each week?

Do you serve a drunken man?

How do you handle men who are disorderly?

No doubt other questions will suggest themselves. The purpose of such an investigation would of course be to determine the character of the particular saloon and the extent to which it is apparently demanded as a public convenience. It would serve as a guide to the governing body in deciding upon the number of licenses and the open hours of business. Of course it will be evident that the saloon varies greatly according to its location and patronage. I doubt if there is any other social institution which so readily adjusts itself to the environment. Some saloons are veritable "working-men's clubs," others do not possess a chair or a table, because they would be useless to the throng of men who hurry in and out again. There are very few "soda fountains" and practically no "quick-lunch counters" where the service compares in efficiency, rapidity and cleanliness with a busy saloon! Waiters—of both sexes—and

the "clerks" in drug stores are clumsy amateurs compared with the average bartender.

The testimony of the saloon-keeper should be supplemented by other evidence from the community standpoint. For example:

What are the neighborhood facilities for social meetings and recreation? For instance, lodge rooms, clubs, reading rooms, bowling alleys, play-houses, etc.

What percentage of licensed liquor places serve meals or have hotel accommodations?

Are there any "public-comfort stations" in the neighborhood?

Eliminating the saloons which serve the day-time convenience of the business section, what is the ratio of saloons to the residents of the district?

Analyze the annual tally of arrests for drunkenness and disorderly conduct, to show how many separate individuals they represent.

What are the total annual sales of intoxicants which are made locally by drug stores, department stores, grocers and bottling establishments?

What comparison does the "family trade" in case goods bear to the gross consumption?

To what extent do jobbers, such as the above mentioned, who only pay a small license fee, compete with the saloon?

Are there any places where liquor is sold illegally? If so, is it due to the lack of conveniently located saloons, or to unduly high license, or simply to police corruption and inefficiency?

What, if any, is the saloon policy of the licensing body? For instance, is the number of saloons adjusted according to ratio of population? Does it discourage saloons in "high-class residence districts?" Can a man who runs a decent place count on a renewal of his license?

Where a license-application has to be endorsed by neighbors, or signed by petitioners, does it lead to blackmail and "hold-ups?"

What is the effect of a remonstrance law?

The purpose of these questions would naturally serve to aid the judgment of the licensing authorities in determining these points:

Where the saloons should be located, with reference to a legitimate demand, and to serving the convenience of the public.

How many saloons this legitimate demand will properly support, without resorting to unusual or irregular "attractions."

The amount of license fee which they can afford to pay.

Whether any saloons for the sale of beer and light wines only would be profitable, and if so, where such saloons should be located.

The extent of the demand for Sunday opening, the locations where the demand for it might justify Sunday opening, and the amount of additional license fee which such saloons could afford to pay for this special privilege.

Right here two most important questions are raised for our consideration: Is it possible or wise to discriminate in favor of beer and the lighter beverages by providing a special license for beerhouses? and what is the best policy to pursue with regard to Sunday opening?

In a number of states the experiment of licensing the sale of beer only at lower rate than a general license has been tried, with varying success. The difficulty is that the holder of a beer-license is constantly tempted to sell ardent spirits, and the separation of the two has proved very hard to enforce. When, however, we remember that American beer only averages $3\frac{1}{2}$ per cent of alcohol, it will be recognized that the encouragement of beer-houses is most desirable. My own belief is that the system can only be operated successfully when brewers actually *own and operate* the places where their product is sold! At present the brewer finances most of the saloons, but he does not operate them, nor does he even actually control them! A successful saloon-keeper can shift his loans with the greatest ease, and is independent of any particular brewer. If the saloon-keeper was the agent or employee of the brewer, he would have no interest in selling spirits.

The Sunday question has caused endless complications. It is probably safe to say that in nearly all of our large cities and popular resorts liquor is sold on Sunday, either openly or under cover. Where the saloons are kept closed, bogus "clubs" and "speak-easies" spring up, which take advantage of the demand for liquor and practically exist on the illicit business which they can get on this one day in the week. The sentiment as to the open Sunday varies so much in the different cities that it is very hard to gauge. It seems probable that in New York, Chicago, Cincinnati, Milwaukee, Jersey City and Newark, and in the popular pleasure resorts, the mass of the people want Sunday opening. In Boston and Philadelphia, and a few other cities of the first class, and in most of the cities of the

second and third class, I think it is probable that the sentiment is against it. It is generally admitted that the present system of legal proscription and illegal practice leads to a great deal of police corruption and blackmail. Whether this is counterbalanced by the benefit of the closed saloon is an open question. It has been suggested that the problem might be solved by allowing certain of the saloons to open during carefully restricted hours on payment of an extra license fee. I question the wisdom of "local option" in the matter of Sunday selling. There is something distasteful about the idea of a "campaign" on such an issue!

One of the most vexed and unsettled questions in connection with the saloon problem is, who shall be the licensing authority? All sorts of plans have been tried; state excise commissions, police commissioners, county judges, courts of quarter sessions, elective boards, mayors, councilmen's committees, and aldermen. No one system has proved so uniformly satisfactory as to warrant unreserved commendation. I think, however, that the weight of opinion among careful students of government leans towards municipal regulation, with wide discretion on the part of the licensing body. The system, whatever it be, should be so flexible as to adapt itself readily to local needs and conditions, and the same authority which issues a license should have the power to suspend or revoke it if necessary. The purposes of a licensing law are well set forth by an English author, Mr. Edward R. Pease, in his book on "The Municipal Drink Trade." He says:

The purposes of the law are:

1. To prevent excessive consumption of liquor.
2. To secure adequate police supervision of public houses, due enforcement of rules as to closing, etc., and the prevention of drunkenness and disorder.
3. To raise a revenue for public purposes.
4. To prevent the sale of untaxed liquor.
5. To prevent adulteration.

We might add that it should operate so as to prevent over-licensing and to encourage moderation and the consumption of the milder beverages. The outcry against the disorderly saloon is occasioned in a large degree by over-competition. No doubt the brewers are responsible for this in many cases, but the licensing authorities

are equally responsible. To plant three saloons where there is only legitimate business enough for two does not increase the thirst of the community; it simply forces one of the three to resort to irregular attractions to draw custom.

An honest and thorough investigation of the saloons would prove that the majority of them are conducted in a decent and orderly manner, and occupy an important place in the common life of the people. I doubt if 5 per cent of the saloons are of a positively disreputable character. Brewers themselves realize that such places are a menace to the trade as well as to the community, and as a matter of enlightened self-interest, they are using the power of their local organizations to force the disorderly saloon out of business. They stand ready to co-operate with all public and private agencies whose purpose is constructive and who are actuated by principles of fairness and sanity, but the common ground must be *regulation, not elimination*. A good system must be something more than a mere negation. There is no doubt that an enormous class wants what the saloon provides, and the freedom, democracy and independence of the saloon have not yet been replaced, to any appreciable extent, by any substitute.

ATTITUDE OF THE DISTILLERS AND WHOLESALE LIQUOR DEALERS ON THE REGULATION OF THE LIQUOR TRAFFIC

BY DAVID STAUBER,

Secretary, National Wholesale Liquor Dealers' Association of America,
Cincinnati, O.

The men engaged in the wine and spirit industry, either as manufacturers or distributors, have every reason to favor a proper regulation of their business. A hundred reasons could be advanced for this, but ninety-nine are of secondary importance in comparison with the premise that without regulation there can be no stability to the business and without stability, profits are uncertain.

The interest of the distillers and wholesalers in the regulation of the liquor traffic begins, of course, at the point where most liquor legislation centers, namely, the place of retail distribution, which brings us to the saloon.

The attitude of distillers and wholesalers on the regulation of the business is, and always has been, the same as that of all good citizens, to support such a system of laws as will protect both the public and the retail liquor merchant. In many states there are laws in force which were apparently enacted with a view of protecting the one and ignoring the other, and there are a number of laws in force which protect neither.

The platform of principles adopted by the National Wholesale Liquor Dealers' Association at its last annual convention reflects, I believe, the best sentiment of the liquor trade on the question of regulation. The organization adopting this platform is composed of nearly one thousand of the largest distilling and wholesale liquor firms in the United States, representing in volume of business and capital invested at least ninety-five per cent of the trade.

PLATFORM OF THE NATIONAL WHOLESALE LIQUOR DEALERS' ASSOCIATION,
ADOPTED JUNE 24, 1908.

We, the members of the National Wholesale Liquor Dealers' Association, in convention assembled, hereby submit to the people of the United States our beliefs and principles: being but a reiteration of the views always held by our trade:

A. Prohibition and local option legislation works confiscation of property, and we most solemnly protest that confiscation of property, without due process of law and without just compensation, is contrary to the spirit of American institutions and should not be tolerated by a free people.

B. The liquor traffic was created and has been supported since time out of mind by the demand for alcoholic beverages, that has characterized all progressive peoples of all ages.

B2. It is true that in the growth and development of our industry, in common with all others, be they railroads, insurance or banking, excesses have crept in which menace the welfare of those engaged in them. It is as unfair to say, as it is impossible to achieve, that the evils can be cured only by destroying the industry.

C. It is the blight of our business that it is everywhere made the victim of political contentions and manipulations, instead of being recognized on its merits as presenting questions of purely sociological and economic character.

C2. It is also unfortunately true that the attempts of the Anti-Saloon League to control the legislatures of our state have thwarted our every effort to take our business out of the field of politics, and have forced us into politics for the preservation of our property and the defense of our constitutional rights.

D. The claim of the prohibitionists that the saloon is responsible for all wickedness is not only untrue, but unfair. While the regulation of the saloon in some cases may be improved upon, yet it must be conceded by the public that much of this duty devolves upon the officers of the municipalities.

D2. Be it the sense of this convention, that we as an organization and as wholesale liquor dealers, make every effort to assist officers of the law to the end that the saloon business may be placed upon the same plane as all other commercial interests.

E. It is our firm conviction that those who honestly seek to promote the cause of true temperance will find the surest and safest method in the continuance of the licensed saloon, conducted under proper laws and reasonable regulations strictly enforced.

E2. In the granting of a license, the character of the applicant and not the fee should be the principal determining factor.

F. Finally, we believe in the subordination of the interests of individual citizens to the interests of the community as a whole, but not in the curtailment of the personal rights and liberties of one class or party of citizens to satisfy the demands of another class or party who may desire to waive such personal rights and liberties for themselves.

It will be seen from the expression of the national organization that the licensed saloon is favored as the safest method of promoting true temperance; saloons to be conducted "under proper laws and reasonable regulations, strictly enforced."

I have found it to be the consensus of opinion among the most conservative men in the trade that the only state license law which

fairly meets this view of the national organization is the Brooks License Law of Pennsylvania, and it is one of the few license laws which admit of strict enforcement. Under this law the license-granting power is vested in the judges of the courts of common pleas, absolutely removing the question from the plane of so-called "practical politics." Another admirable feature of this law is that which prevents the transfer of a license until after all claims of creditors are fully satisfied.

During the past hundred years Pennsylvania has experimented with more laws regulating the liquor traffic than any other state in the Union, and they have run the whole gamut. The Brooks Law is the natural result of this experience, and many of the laws tried and found wanting in Pennsylvania are being copied and experimented with to-day by other states. The greatest stumbling blocks in the way of true reform are so-called prohibition laws, loose license laws, and no license laws, Maine and North Carolina offer examples of bad prohibition laws—(all are bad, but these are the worst); New Jersey of a loose license law, and Ohio is the most shining example of iniquitous liquor legislation in the entire country.

To particularize: The report of the sheriff of Penobscot County, Maine, for the fiscal year, shows a net profit accruing to that county from the sale of liquors seized and fines assessed and collected for illicit sale of same aggregating between \$7,000.00 and \$8,000.00. This is a fair example of how prohibition prohibits.

The new prohibition law of North Carolina, while directing:

Section 1. That it shall be unlawful for any person or persons, firm or corporation to manufacture or in any manner make, or sell or otherwise dispose of, for gain, any spirituous, vinous, fermented or malt liquors or intoxicating bitters within the State of North Carolina.

provides further:

That wines and ciders may be manufactured or made from grapes, berries or fruits, and wine sold at the place of manufacture only, and only in sealed or crated packages containing not less than two and a half gallons per package; but no wine, when sold, shall be drunk upon the premises where sold, nor shall the package containing the same be opened on said premises; and provided further, that nothing herein contained shall be construed to prevent the sale of cider, in any quantity, by the manufacturer from fruits grown on his lands within the State of North Carolina.

This might be called prohibition against those on the outside, but not against those on the inside.

In New Jersey the license-granting power is usually vested in the municipal boards of aldermen. This is the kind of a law that results in bringing the retail liquor merchant under the thumb of the ward politician. This statement can be verified frequently by anyone who reads the newspapers. Is it to be wondered at that the retail liquor dealer is in politics? In New Jersey for many years it has been the custom for the boards of aldermen to transfer retail licenses to the brewers, and these are kept locked up in the brewers' safes and the retail place is run by some irresponsible agent of the manufacturer.

It is worth while to compare this New Jersey law with the Brooks Law of Pennsylvania. In Pennsylvania no person can be the holder of more than one license. This creates an independent class of retailers, who, having a business at stake with all the collateral connections that this suggests, obey the law; whereas, in states where there is no such restriction, the irresponsible agent, having everything to gain and nothing except a nominal wage to lose by irregularities—(his profits are kept down to that point where he is always an employee), working as he does for what may be granted him, ground down mercilessly by a combination which recognizes no such things as decency or "a square deal," with the hope of independence almost realized but shattered at every settlement day, eagerly resorts to practices which the independent dealer would not stoop to adopt. There is no secret about the fact, either inside or outside of the liquor trade, that the average licensed saloon, owned by the man who runs it, is rarely placed in the category of "the dive."

I have saved Ohio for the last analysis, because I believe it furnishes the best illustration of the injury that is done to society by vicious and ignorant legislation.

The constitution of the State of Ohio prohibits the issuance of a license for the manufacture or sale of intoxicating liquors, although I have been advised by constitutional lawyers that this violates one of the clauses of the act of congress establishing the Northwest Territory, of which Ohio was once a part. I want to hold this irregularity to view, for the reason that the validity of the Dow Law of 1886, which placed a special tax of \$350.00 per year

on the business of manufacturing or selling intoxicating liquors (since raised to \$1,000.00 under the Aiken Act) was itself brought into question in the case of *Adler vs. Whitbeck* (Ohio State Reports, 44) and its constitutionality attacked on the ground that it would operate as a license law, etc. While the validity of the Dow Act was, in effect, affirmed by the Ohio Supreme Court in the case cited, it is interesting to observe that it was by a three to two vote, the Chief Justice, Owen, and J. Follett dissenting.

I have discussed this Ohio decision with some of the most able members of the Ohio bar, and I have not found one who disagreed with me in the statement that at least three members of the Supreme Court of Ohio most emphatically stultified themselves in rendering that decision. The only plausible excuse that I have ever heard offered for this decision is that "the state needed the revenue." On the same high moral ground a knight of the road calls out in the moonlight: "Gentlemen, stand and deliver!" With such an example from the highest tribunal of the state, is it surprising that there are violators of Sunday closing ordinances?

To set itself right, one of two steps should be taken by the State of Ohio:

First: Provide by legislative enactment a specific penalty for the manufacture or sale of intoxicating liquors;¹ or,

Second: Submit for adoption to the people of the state a resolution of the legislature repealing the clause of the constitution prohibiting the issuing of a license, and provide for a license law that can be enforced and under which the traffic can be properly regulated.

At present all that is necessary to do to open a retail liquor store in Ohio is to rent a place and pay the tax! It would be a waste of words to enlarge upon what this means.

This has a pertinent bearing on the subject of regulation, for without a working hypothesis—a rational license system—all so-called reforms are mere makeshifts unworthy of serious thought. With a proper license law, the state would have something on which to base genuine reforms. This would not please the political harpies who prey upon the ignorant and vicious, nor would it suit the job-hunters of the Anti-Saloon League, whose chief interest lies

¹Under the criminal code, it is possible that this clause might have been enforced, but it was never invoked, and the method is regarded by constitutional lawyers as impracticable.

in agitation and not in any sane solution of the problem. They are as much opposed to license as they are at heart to prohibition. Their "graft" is perpetual local option agitation. The accomplishment of license or prohibition would result in their either starving or having to hunt honest work.

The statement has been made by irresponsible enemies of the liquor trade that the distillers and wholesalers are anxious to distract public attention from their own shortcomings by general agitation of the regulation of the saloon, but that they are unwilling to regulate themselves. In challenging this statement, I offer in evidence a resolution adopted at the Niagara Falls convention of the National Wholesale Liquor Dealers' Association, in June last² with regard to obscene advertising. This resolution, to my personal knowledge, is the outgrowth of several years' earnest effort on the part of the association to stamp out an abuse on the part of a few dealers which has discredited a great industry. The word has now gone out that the instructions contained in this resolution will be faithfully carried out by the executive committee of the association, even if it results in publicly branding as shameless culprits members of firms with an ancient and honorable standing in the liquor trade.

RESOLUTION.

We reaffirm resolutions adopted at previous conventions, condemning the practice on the part of a few dealers, of issuing obscene, lascivious or suggestive advertisements and labels in connection with the sale of liquors, and we urge the executive committee to secure, if possible, the discontinuance of such practices in all such cases that may be brought to its attention. We direct the executive committee, upon failure or refusal of the offending parties to discontinue the practices complained of, to institute legal proceedings against such party or parties, and if they be members of the association, that they shall also be expelled from the association, as provided in Article VIII, Section 3, of our By-Laws.

THE STATE DISPENSARIES OF SOUTH CAROLINA

BY NIELS CHRISTENSEN, JR.,
Editor, "The Beaufort Gazette," Beaufort, S. C.

The state dispensary system, as established in South Carolina in 1893, was the result of revolution and not of evolution. The present so-called county dispensary system, established in 1907, is an evolution from the old. The former, transplanted from different surroundings, could not have survived its introduction in this state but for abnormal conditions. During the twelve years it lived, many legislative and executive modifications accommodated it to the prejudices of the people, the change from the state to the county system being but the latest step in the evolution. It was the longest step taken and profoundly affected political conditions inasmuch as the old system had come to dominate politics and was honeycombed with graft.

The state did not succeed as a barkeeper. Will the counties do better? That is a question that South Carolina is solving. The experiment is only eighteen months old and it is too early to say what the outcome of this decentralization will be, yet it may prove worth while to examine the defects of the old and the proposed remedies of the new.

In his study of "The South Carolina Dispensary System," published in 1898, in one of the volumes in which are collected the researches of "The Committee of Fifty to Investigate the Liquor Problem," Mr. John Koren pointed out the weaknesses of the system. For seven years thereafter these evils developed and made themselves so manifest that when the last legislative investigating committee started its work in 1905, public opinion demanded the truth and got much of it. The evidence before that committee gives a graphic idea of the operation of the tendencies noted by Mr. Koren. First let us briefly review the law and then examine the evidence supporting Mr. Koren's conclusions.

So rapid and radical were the changes in the dispensary law and its interpretation during its fourteen years' existence that more

space than can be spared would be required to record them. Mr. Koren described the early forms in the volume cited, and Mr. Wallace Irwin summarized its "main and stable" provisions in "Collier's," March 28, 1908. It will suffice our present purpose briefly to set forth its main features during the latter and more settled years.

First, the then existing license system was wiped out. All saloons were closed and the state opened up business on its own account. It established a monopoly. No one might sell liquor in the state except the state's dispensers. Two counties, where prohibition had long existed, were exempted; and toward the last the Brice law, bitterly opposed by the dispensaryites, provided that any county might go dry by voting out the dispensary, an option that was joyfully adopted by fifteen counties in the years 1905-6. However, liquor bought outside the state might be shipped in for personal use.

It was to be the "Great Moral Institution"—a "step toward prohibition," as well as a revenue-producing measure. So there were provisions that no liquor could be drunk in the dispensaries and it must be sold in sealed packages of not less than half a pint that could not be opened on the premises. The doors must be closed between sunset and sunrise; no sales to be made to minors nor persons in the habit of becoming intoxicated. Each purchaser signed a blank giving his name and age, kind and quantity of liquor bought; and all liquors received by the commissioner were required to be tested by the chemist of the state university and not accepted unless certified by him to be "pure and free from poisonous, hurtful and deleterious matters," otherwise "their use and consumption" was "declared to be against the morals and good health and safety of the state." It is interesting to note that on this last clause rests the legality of the whole structure. For it is only as a police measure that it stood the tests before the courts. It may be remarked here that the requirements of this test accomplished nothing, practically, except to provide the legal basis found to be necessary.

A board of directors, three in number, salary \$400 a year, elected each two years by the legislature, purchased all liquors and supplies, fixed the salary of the local dispensers and their assistants, prescribed rules for the conduct of county and state departments, and decided questions appealed from the county boards. They could purchase only from bids and half pint samples submitted

in answer to newspaper advertisements. These bids and samples were sent sealed to the state treasurer who delivered them on purchase days to the board, the seals were then to be broken in public and the awards made. No purchases were permitted from firms personally soliciting business in the state except through the afore-said bids.

A dispensary commissioner, salary \$3,000, bond \$75,000, elected also by the legislature for a two-year term, managed the wholesale end. Located at the central office and warehouse at Columbia, he received the liquor bought by the board and reshipped it to the local dispensers on their requisition. Cheap liquor was bought in bulk and bottled by the commissioner.

The county boards of control, compensation two dollars per diem, not exceeding thirty days a year, appointed by the state board on the recommendation of the legislative delegations of the respective counties, located, with consent of the state board, as many dispensaries as they chose in incorporated towns except in two counties where they could put them anywhere, elected dispensers, employed assistant dispensers upon approval of the state board, and were "charged with the duty of prosecuting the county dispensers or any of their employees" for violations of the law.

Applicants for the position of "county dispenser" presented sworn petitions stating, in part, in what business engaged for the last two years, whether a qualified elector of the state, resident of the county, keeper of a restaurant or place of amusement, that he was not "addicted to the use of intoxicating liquors as a beverage," and that he had never been adjudged guilty of violating the liquor laws. He was paid about seventy-five dollars a month and he gave bond for \$3,000. On Mondays he remitted to the state treasurer the state's share and to the county treasurer the share due the county and the municipality.

To audit the accounts at headquarters the governor appointed every year two "expert accountants," each to receive "four dollars per day not exceeding thirty days in any one year." Quarterly examinations of the same accounts were made by a legislative committee, two from the house and one from the senate, one of whom was required to be present at quarterly stock-taking. Each received four dollars a day not to exceed twenty-four days a year. Their annual report was made to the legislature. The commissioner em-

ployed inspectors at \$100 a month to check up the accounts and stock of the local dispensers.

To the governor was given the power and duty to appoint a chief constable at \$125 a month and as many assistant constables as might be necessary to police the state. The total cost of the constabulary amounted to \$66,000 a year.

The profits were fixed by the state board and divided between the general school fund, the counties and the municipalities in which dispensaries were located.

Considering the actual operation of the system and its results, as shown by the legislative investigation of 1905-6, we can see that the system depicted in the law and the system that actually existed were two quite different things. For the law was flagrantly misinterpreted and disregarded by the dispensary officials to suit the purposes of the powers that directed the policies of the system. It was, first and foremost, a political machine directed at first entirely, and always all but exclusively, by the lieutenants of Senator Benjamin R. Tillman. The temperance and revenue features were usually subordinate to the political. Incidentally it became permeated with graft, and when the people saw this clearly they arose in wrath and destroyed the central institution. So subtle, for the most part, became its political influences, and so skilfully were the profit and temperance features accommodated to the needs and prejudices of different sections that the people did not become sufficiently aroused to throw it off until the revelations of graft were made. If the able men who so long directed its destinies could have prevented their coarser companions from open graft the system would doubtless now be the controlling influence it once was; but they could not keep the grafters down. That was the last straw.

The temperance and revenue features will be considered later in connection with the present county dispensary as the management of the local dispensaries has not changed materially, in form at least, under the new régime. The great point so far established in South Carolina's barkeeping experience relates to the effects of a centralized dispensary system on the public life of a state.

Let us see the way it worked as told in the investigation. Imagine a legislative election for a board of directors. No man who values his reputation will become a candidate for a position in which men get rich on \$400 a year. As one said who would not stand for

re-election, "The general impression was that it was not an honest place, and I did not want people to suspect me." Only those with a pull in the legislature have a chance and often a legislator is elected. Hardly one has any business or other qualification for the management of a three million a year business. Says one, "You prohibitionists say you want some one who will discredit the dispensary by continuing the stealing. Then elect me for I'll promise to steal everything in sight." The prohibitionists laughed, joined the rest in electing him and he made good their expectations. Two legislators received suits of clothes, one said of his benefactor, that if there was anything to get out of it he was the proper man to get it; he was a big-hearted man and didn't mind spending it on his friends and it went back into circulation anyway. Others sat in the director's theatre box, drank his liquor; and one said of him, "He would come to a man and if I needed money I could get it."

Next suppose the board about to open the sealed bids, drummers being forbidden by law to solicit, remember. "It was a private room, hired by the liquor drummers—Room 12 at the Columbia Hotel. The state board of control was in session. I saw money change hands between members of the state board and liquor drummers. I have seen members of the legislature come up into these rooms and participate in the liquor and cigars. As soon as the legislature would adjourn, about mid-day, they would always go up to the hotels. That was headquarters, and always had plenty of champagne and liquor and cigars."

The board fixed dispensers' salaries and had power of removal and this gave control over these 144 picked henchmen scattered over the state. In a race for governor the chairman of the board wrote to dispensers on his official letter heads, "Dear sir: I feel a deep interest in the success of my friend ———, in his race for governor, and take the liberty to write you in his behalf. If you have no particular choice in the matter I assure you I will appreciate anything you can do for him. If you can support him, please endeavor to get his friends to the polls at the various boxes in your county."

The board was lenient with its subordinates. One dispenser wrote to ask whether he could receive rebates in the shape of empty cases returned, and permission was cheerfully given. A liquor dealer asked whether Christmas presents to dispensers would be

objectionable and the reply was. "Dear Jim:....Will say that I can see nothing unlawful or improper in your sending Christmas gifts to your friends." Over one hundred and fifty dispensers defaulted and very few were prosecuted, some were even retained. The system protected its friends.

Here are three instances to illustrate where the graft of the big fellows came in: Much "Old Joe" whiskey was bought from an Atlanta concern in carload lots for \$36.00 a drum, whereas the same goods were sold in single drum lots to Atlanta saloons for \$28.00. This firm made a "Christmas present" to a member of the board of a carload of "very handsome furniture" worth about \$1,500. Labels which could be bought for \$8,000 were purchased for \$35,000. An Augusta brewery, after long failure to secure orders, put its business in the hands of a friend of one of the dispensary board of directors. At the direction of their representative the brewery raised the price \$125 a car, which amount was paid to the agent to be divided, as understood, with the director. The price to the state was subsequently reduced and the commission cut off, whereupon the business stopped.

Liquors were adulterated so that large commissions could be paid, increased prices were charged, special brands were pushed by the boards; and those who studied the situation estimated that on purchases for a year, amounting to two and a half million, half a million in graft must have been distributed. The commissioner's share of the plunder was founded on his power to push favorite brands. This letter indicates the situation, it was written to a liquor house in Louisville, Ky.:

DEAR SIR: Do you want to sell goods to the S. C. dispensary at their next board meeting? . . . My uncle, Commissioner ———, has a salary of \$3,000, quite insufficient for his needs. My father is a dispenser at \$1,200 annually, selling \$52,000 to \$60,000 a year; he could use at least \$20,000 to \$25,000 a year in "Ripple Creek" for a small substantial inducement. . . . My uncle, the commissioner, will not accept a check, but as his agent, I can do some business for him and for you, as nearly, in fact, all whiskey concerns, as you know, are paying for their trade with a small rebate. . . .

Some of the county boards of control got a considerable part of the "swag." In Spartanburg County, beer dispensers and their breweries paid members \$450 for an appointment as dispenser for a one-year term. After appointment a dispenser asked the chairman of this board for instructions as to how to run his place to

which the reply was, "Don't mind instructions; make every dollar you can; you will need it for your next election." Those dispensaries were ill kept, there was drinking on the premises and the police reported frequent serious disturbances, the liquor dispensaries, on the other hand were usually orderly and well kept. In Greenville county a beer dispenser writes thus to his brewer of his troubles with his board to whom he had to pay \$400 in two installments for his appointment, the brewer advancing half:

GENTLEMEN: The second call is made on me by the grafters for \$200, so I will have to call on you again for \$100. This settles up everything for that three.

The investigation did not extend to the constabulary, but incidentally evidence was given showing that in a gubernatorial election constables were carried on the pay roll who spent their time during the campaign electioneering for a gubernatorial candidate; their mileage, per diem and expenses being charged to the state.

The graft of the local dispensers was provided for. Their place in the scheme is thus summed up by one of the number writing to a New York whiskey house:

DEAR SIR: . . . The advertisements are posted, but this will accomplish nothing unless you can get the county dispensers to handle the goods . . . if you want the goods sold communicate with the county dispenser of each county and let him know what he may expect, if anything, for special courtesies. It is an old proverb as true as holy writ: "Whose bread I eat, whose song I sing." The county dispensers order what they want and sell what they get. A hint to the wise is sufficient, and this is given confidentially. . . . We can handle the goods all right if the proper quid pro quo is forthcoming.

They were all good fellows and their correspondence usually indicated it, as for example this from a Louisville whiskey house to a dispenser:

DEAR SIR: It is a well-known fact that only sober gentlemen are in charge of the dispensaries, yet we doubt not that every last one of them will partake of an occasional thimbleful "for the stomach's sake." Desiring to contribute something toward good cheer for the holidays . . . please accept them with the compliments of the season, and in the hope that whenever you partake of these liquors you will give us a kindly thought. . . . Thanking you for preference shown all our brands . . .

The auditing by the governor's and legislature's appointees was

a farce. They always reported the books well kept and the accounting department a model of accuracy. Yet the American Audit Company, which made up a statement of the assets and liabilities after it was all over, found everything in the most chaotic state imaginable. Beside carelessness and incompetence there had been fraud; as, for instance, when invoices amounting to \$200,000 were one election year withheld from the liabilities so as to swell the apparent profits.

The investigation closed with the beginning of the state primary campaign of 1906. One investigation leader was elected attorney-general to prosecute the grafters (in spite of Tillman's bitter opposition); another went back to the legislature with a majority pledged to overthrow the centralized system. The present law was evolved from the old with the hope of eliminating graft and retaining the features making for temperance.

The central institution with its state officials is eliminated, except for an auditor appointed by the governor. Each dispensary county conducts its own system under practically the same regulations as before. The county board of control of three has entire charge; the three men are appointed by the governor, one upon the recommendation of the delegation, one upon recommendation of the county board of education, and the third upon recommendation of the mayors of the municipalities, each of which bodies receives a part of the profits, the proportion differing in the several counties. This scattering of the appointing power practically eliminates political maneuvering for appointments. Some counties exempted themselves from this provision and allow their delegation to recommend the whole board, with the result that in several the dispensary is already playing a part in the election of legislators. No solicitation except by sealed bids is allowed, and when this provision was first disregarded the attorney-general went after the offending parties so vigorously that no such offense has been heard of since.

In short, it appears, from eighteen months' experience with the county system, though most of the temptations of the old system exist in the new, yet so aroused have the people been and so near to the average citizen are the workings of the system that the officials are under much greater restraint. The state system was so remote and so powerful that it could not be handled by anything short of a political upheaval. The county officials are liable to be over-

hauled at any time by the grand jury, and if any member of the county board shows signs of sudden wealth unaccountably acquired he will be at once suspected by a public opinion which is potent with the local appointing power. Decentralization has killed the lioness and her dwarf cubs are comparatively easy to handle. However they are not lambs.

The genesis of the two systems has had much to do with their subsequent character and it may be well to pause and consider them. When Governor Tillman with a furious hand and an iron will established the state dispensary at the cost of riot and bloodshed it was new to South Carolina and to the country, except for the county dispensary experiment at Athens, Georgia, which was copied from the Swedish law. It was not a popular move and succeeded only because backed by a popular idol whose will, no matter how it galled at times, was submitted to by a militant and loyal majority. Everything appertaining to the dispensary he covered with his cloak, and all beneath that cloak was sacred. The county system had a different birth. It was the will of a large majority expressed at the polls after a campaign in which the thirteen years' experience was discussed in the light of the investigation. The transition from the old to the new was accomplished without a jar. Inaugurated by an administration pledged to punish corruption it has had a careful bringing up.

The state dispensary raised more revenue than the license system it displaced, but less than the county dispensary. In 1892 there were 613 barrooms paying county and municipal taxes amounting to \$215,372 (see Mr. Koren's estimate). In 1904, the 144 dispensaries in thirty-nine counties paid a profit of \$775,000, or about twenty-three per cent on sales of \$3,375,000. Doubling the sales and profits reported from January 1, 1908 to July 1, 1908 we have sales of \$3,496,520.70 in the one hundred dispensaries of the twenty-four counties with a net profit of \$898,728.64, or about twenty-six per cent. So it is shown that the twenty-four dispensary counties, under the new régime, are selling more than the thirty-nine counties of the palmy days of the old.

The two systems do not differ materially in their temperance features so far as the letter of the law is concerned and the reason for this apparent increase in consumption is hard to give. Falsified accounts in the old days may affect the showing, a difference in the

percentage of profit charged per gallon may have something to do with it, more vigorous prosecution of illicit dealers by the local authorities doubtless accounts for part of it. In the county in which the writer lives the sales and profits show a corresponding increase, and while there is no evidence of an increase in drunkenness and crime there is no question that the illicit sales have decreased. It cannot be disputed that there is practically no incentive offered dispensers by dealers to push sales now, whereas there was before. So there is much question of the relative merits of the two dispensary systems as temperance measures. But as to their advantage in this respect over the license system there is no doubt. This phase of the question may be summed up in the words of Mr. Koren, which fit the situation to-day as well as when written twelve years ago:

The unbiased observer cannot fail to be impressed by the changes wrought by a system which has closed the saloons and nearly suppressed the illicit traffic. . . . It is then, beyond all cavil, true that in the cities and towns formerly under license the dispensary law has promoted sobriety in a truly wonderful degree. . . . The policy of compelling the purchaser to buy more than a drink at a time—never less than one-half pint—is a questionable method of encouraging consumption and is by some believed to have stimulated home drinking. . . . Evidence is at hand warranting the belief that the rural districts are beginning to suffer the very ills from which they wished to relieve the town through the dispensary system.

It should be recorded here that the prohibition counties are pleased with the change they have made and it is very unlikely that any of them will go wet again.

One feature of the situation that is to be credited to the dispensary is seldom touched on. There are within the state's borders but a few small distilleries, one brewery, and of course no blending plants nor wholesale liquor houses. This means to a state without saloons freedom from the baleful influence of the liquor organization that elsewhere obtains in wet states. So in local option elections here the expression at the polls is comparatively free from the great pressure that is ordinarily brought to bear by the organized local liquor trade.

Whether the present system will long remain clean is a hard matter for conjecture. Generally speaking, the liquor traffic in the country at large is conducted by men whose business methods

are corrupting. Wherever that trade touches it tends to pollute. The tendency may be withstood, but it is always there. So no matter what your liquor system it is subject to strong evil influences. The dispensary accomplishes much in abolishing the social features of the saloon and the element of private profit that is so potent in pushing sales. But in putting into the hands of public officials the power to purchase liquor the door for graft is thrown wide open, and through it at any moment may enter corruption that will render the system as evil as the worst.

SUPPRESSION OF THE "RAINES LAW HOTELS"

BY REV. JOHN P. PETERS, D.D.,
New York City; Chairman of the Committee of Fourteen for the Suppression
of the Raines Law Hotels.¹

The present liquor tax law, commonly known as the Raines law, from its author and promoter in the legislature of the State of New York, Senator John Raines, was enacted in the year 1896. This law provided for local option with regard to the sale of liquor in the country districts and small towns, but not in the large cities of the state. It was otherwise a high license law, and in the City of New York the license for the sale of liquor to be drunk on the premises was fixed at \$800, later raised to \$1,200, in addition to which a bond was required of double the amount of the license. For the protection of residential districts it was provided that every applicant for a license should file with his application consents of two-thirds of the owners of buildings used solely for residential purposes within a radius of two hundred feet of the entrance of the place in which liquor was to be sold. Liquor was not, however, in any case to be sold within two hundred feet of a church (without the special consent of the trustees of the church) or a school on the same street or avenue; but a saloon or hotel existing in such location before 1896 might continue to sell liquor as before.

What concerns us, however, more specially is the hotel provision in this law, by which all liquor selling on Sunday was forbidden, except with a meal to guests in a hotel. A hotel, according

¹The Committee of Fourteen for the Suppression of the "Raines Law Hotels" in New York City was created in 1905 by a conference of various civic bodies held at the City Club. The following persons are members of the committee: Rev. Lee W. Beattie, Hon. William S. Bennet, Prof. Francis M. Burdick, Mr. Edward J. McGuire, Mrs. William H. Baldwin, Jr., Miss Frances A. Kellor, Mrs. V. G. Simkhovitch, Hon. William McAdoo, Rabbi H. Pereira Mendes, Rev. Howard H. Russell, Mr. George Haven Putnam, Mr. Isaac N. Selligman, Mr. Francis Louis Slade. The officers of the committee are: Chairman, Rev. John P. Peters, well known for his studies in Babylonia, his writings and his interest in social betterment; treasurer, Mr. William Jay Schleffelin, and executive secretary, Mr. Frederick H. Whitin, to whose efficiency and single-mindedness much of the success of the committee's work is due.—EDITOR.

to existing statutory provisions incorporated in the law, must have not less than ten bedrooms, be provided with a separate kitchen and dining-room of adequate size and equipment, and comply with any local regulations affecting hotels in the city or town in which it was situated. While the excise commissioner was provided with very great power theoretically, at least, for the enforcement of this law, he was given no discretion with regard to the issuance of a license. Any person applying for a license in the correct form must receive it, even though it were known to the commissioner of excise that the statements made by the applicant were false, or the consents of neighboring property owners forged. The license once issued, however, the commissioner of excise can secure its revocation, by showing before a judge of the supreme court that the statements in or consents attached to the application are false or fraudulent. Likewise if, after the issuance of the license, the law is violated in any particular, the license may be revoked and, on proof before a jury that the licensee violated the conditions upon which it was issued, the bond forfeited to the state. One and the same penalty was provided for all violations of the law, from keeping a disorderly house, down to selling out of hours, namely, revocation of license and forfeiture of bond. It was also made the duty of the police authorities and the criminal courts to enforce the law, and anyone selling in forbidden hours or on Sunday, except in a hotel with a meal, or keeping a disorderly house or a gambling resort in connection with a place for the sale of liquor, was liable to arrest and might be punished criminally by fine or imprisonment or both. A conviction in the criminal courts, whether of the proprietor or of his agent, servant or employee, of keeping a gambling or a disorderly house, secured the revocation of the license, so that criminal prosecution really brings a double penalty in its train.

This law gives in practice an enormous advantage to the hotel. Being permitted to run on Sunday, the hotel is able, under pretence of selling liquor with meals, to maintain an open bar with comparatively slight risk of punishment, whereas the mere opening of the ordinary saloon on Sunday is in itself presumptive evidence that the law is being violated, and may lead to prosecution and conviction, if not on the instance of the excise department or the police, then on that of a taxpayer who, under the provisions of the law, is

allowed to prosecute before a judge of the supreme court, in the same manner as the excise department for revocation of a license, although not for forfeiture of the bond.

One result of the Raines law was that hundreds of saloons, the majority of them originally decent and orderly places, were turned into "hotels," with ten bedrooms, a kitchen and a dining-room. To cover the cost of the ten bedrooms, kitchen and dining-room, the proprietors were obliged to obtain some revenue from these rooms. In almost all cases there was no actual demand for such hotel accommodations; the result was that the great majority of these "hotels" became houses of assignation or prostitution. These are the so-called "Raines Law Hotels."

The careful investigation of the "social evil" made by the Committee of Fifteen, of which the late William H. Baldwin, Jr., was president, showed the serious nature of the evil resulting from these hotels. Situated largely in the midst of residence and tenement districts, they became the means of debauching the young of both sexes. They were the headquarters of the infamous "cadet system." Presenting themselves to the public under the innocent guise of hotels, young women were brought in and ruined and then sent out to a life of shame. It was to secure the abolition of these "hotels" that the Committee of Fourteen was organized in 1905.

The first task of the committee was to find out the actual conditions and ascertain wherein the law or its enforcement was at fault. Careful investigation showed that out of 1,405 registered hotels in Manhattan and the Bronx, not more than 250 could be counted as legitimate hotels, the remainder being houses of prostitution and assignation, masquerading as hotels at the suggestion and with the protection or connivance of the law. Of these fake hotels the greater number had come into existence as a result of the Raines law, and the majority of them did not even comply with the provisions of the law under which they existed regarding bedrooms, kitchen and dining-room. This was partly due to a serious defect in the law itself. The commissioner was obliged to issue a license to any place which claimed to be a hotel. There was no method of determining in advance whether it complied with the requirements of the law or not. The hotel permit once issued, it was slow and difficult work, owing partly to the difficulty of investigating and securing facts, partly to the delay methods of the courts, to secure

the revocation of the license within a period which would make that revocation effective as a penalty.

Manifestly, if the object of the law really was to prevent the licensing of improper places, it should be amended by providing some means of determining in advance whether the place applying for a hotel permit actually complied with the terms of the law. Such an amendment of the law, however, was objectionable to the originator of the law and also to those who then administered it. Accordingly the first attempt at such a modification of the law resulted in the passage, in 1905, of a make-shift bill, which ultimately turned out to be unconstitutional. Finally, 1906, a bill was passed, the so-called Prentice bill, which provided that all places claiming to be hotels should be examined by the building department, or corresponding officials of the city or town in which they were situated, to ascertain whether they complied with the terms of the law, and that a list of all places complying with the hotel laws of the state and the local regulations of the town or city should be furnished to the excise department, which thereafter should issue no hotel permits except to places thus certified to them as complying with the law. This instantly closed 540 alleged hotels in New York. Of course a large number of these places took out ordinary saloon licenses, still continuing the illicit use of their ten rooms under one guise or another; but they no longer held hotel permits.

The investigations of the Committee of Fourteen had shown that the excise department was run for revenue as its chief object. The courts, in a case brought to test the constitutionality of the Raines law, had adjudged that law constitutional only as a police measure. The excise department, however, had administered it as a revenue measure, with the object of securing as much profit as possible out of the sale of licenses. The excise commissioner had been in the habit of practically granting extra-legal licenses to brothel-hotels and the like, in consideration of the payment at certain intervals of an extra fee, disguised as a penalty. Had he not done so it would have been impossible for the "Raines Law Hotel" evil to attain the proportions which it did. The way in which this extra fee was levied was as follows:

The excise department each year secured through its agents evidence of violation of the law in a certain number of places.

This evidence was sufficient to revoke the license and forfeit the bond. The former action must be brought before the expiration of the certificate and so is limited, but the bond forfeiture action was, until this year, only limited by the statute of limitations (twenty years). These latter actions were therefore brought when and as the Department considered best for its policy of revenue collection. While these actions constituted in themselves a very considerable penalty, in comparatively few cases did they put the saloon out of business nor was it apparently the intention of the commissioner of excise that they should do so. As a rule in the case of revocation actions a new license was obtained for the balance of the year, under which business was continued as before, and the excise department was so much to the good. Had the commissioner actually desired to prevent immoral traffic, he could have done so by following up each case with repeated prosecutions until the place was put out of business or compelled to abandon its immoral traffic. A few examples in each town would have been quite sufficient to give the department control of the situation. What was done, however, was quite different. Instead of following up any given offender, until he ceased offending or was put out of business, after one license had been revoked the commissioner turned his attention to some one else, leaving the first offender alone for a period of years until he had recouped his losses. The result was a notable increase of revenue for the state, while few offenders were mulcted so heavily as to put them out of business. Thus the state, through its excise commissioner, really licensed vicious resorts in consideration of the payment of extra fees.

This system was to some extent interfered with by the action of private individuals and societies, who instituted prosecutions on their own account; and at one time the excise department, with the aid of the then governor of the state and of the originator of the law, actually secured an amendment to the law, preventing such action by private citizens, which interfered with this method of extra legal licensing of vice by the state.

A year ago the committee had a conference with Governor Hughes and the new commissioner of excise, Commissioner Clement, and laid before them the facts which they had ascertained with regard to the law and its administration. Both the governor and the commissioner agreed with the committee as to the essential

element of the law, namely, its police character, and in general also as to the manner in which the law ought to be administered, to make it effective, namely, that offenders should be followed up by continual prosecutions until the offense ceased. It is pleasant to add that the present commissioner, Hon. Maynard N. Clement, is making a much more effective use of the police provisions of the Raines law, although much hampered by the seeming hostility or indifference of the courts.

About this time, also, the committee called the attention of the department to an apparent wholesale violation of the law in New York City under previous administrations. The law specifies ten bedrooms as the minimum for a hotel in any locality, but provides for compliance with local regulations as to the number of bedrooms, etc., wherever such exist. The excise department had, however, without court interpretation actually accepted in New York City ten rooms as constituting a hotel, although under the provisions of the building code in that city a hotel must have over fifteen rooms. Had the excise department from the outset insisted on the number of rooms nominated in the building code, the ten-room "Raines Law hotels" could never have come into existence in New York City. The courts would doubtless at that time have sustained this natural and common sense interpretation of the law; if in fact anyone had questioned it. But New York courts have notoriously the habit of legislating by judicial decision for the protection of vested interests. When, therefore, after the conference referred to above, the present excise commissioner attempted this year to change the practice followed for twelve years and required instead of ten bedrooms for a hotel more than fifteen, as provided by the building code, this decision was contested and the lower courts, in view of the considerable vested interests which had been allowed to arise under the former practice of the excise department and which would be injured by the new ruling of the department, interpreted the law, contrary to the plain statement of its letter, as requiring no more than ten rooms to constitute a hotel. The case has been appealed and if it should be decided in accordance with the actual terms of the law itself, instead of on the principle of interpreting the law so as not to injure interests which have been allowed to become vested, 545 hotels will be put out of existence as hotels at one stroke.

On the criminal side there developed, in connection with the Raines law, a system of graft of a different and more private character, by police officials, district leaders, court clerks and the like. The proprietors of the Raines Law hotels paid so much to the police or the district leader for the privilege of improperly conducting them and for protection in court in case of prosecution.

This protection was secured by various devices. Magistrates who really desired to administer the law as it existed often hesitated to hold the alleged offender, because they were suspicious that the police had framed the case before them, only to use it as a club to compel the proprietors to pay graft. In the court of special sessions, the business of which is largely administered by the court clerks who have the actual arrangement of the calendar, there was an ingenious system of delay of favored cases, often by a nominal forfeiture of bail bond, which was generally equivalent to a nullification of the law. (From the report of District Attorney Jerome, it was ascertained that out of 457 bonds theoretically forfeited in this court in the year of 1907, only eleven were actually sent to his office for collection.) When the cases actually did appear on the calendar, the attorneys for the defense, not desiring a speedy trial, were full of ingenious excuses for postponements which, in its crowded condition, the court was not averse to granting. If the court refused to grant the postponement, a "doctor's certificate" would be presented. The right to move for a jury trial or other technical delays were also used. But none of these delays could have been of final value, had the judges, when conviction was secured, taken the facts into consideration, and imposed a sentence carrying a penalty equal to that which would have been suffered by a more prompt decision.

Space will not permit any full discussion of the police and court situation as it presents itself to the committee. Suffice it to add that it has, in the last few months, been greatly improved, albeit still leaving much to be desired. So much for the law and its administration, with which the committee has been compelled to deal in the course of its work.

Very little investigation, however, showed the committee that the law and its administration were not alone to blame in the premises. There was also to be taken into consideration the factor of corrupt business practice by men reputable in other regards,

who were deriving large profits, directly and indirectly, from the maintenance of the brothel-hotels, called Raines Law hotels.

In New York the retail liquor traffic is largely in the hands of the brewers. One brewing concern owns all the places in which its beer is sold, and another is rated third on the list of property holders in New York City. Where the place is not owned by the brewer, the brewer generally advances the money to pay the license fee and perhaps to furnish and equip the place, taking in exchange a chattel mortgage, or such other security as enables him to exercise a pretty fair control over his saloon and hotel keepers. The bonds which the liquor-dealer must furnish, and without which he could not conduct business, were written generally by one of the large surety companies. In case of places of notorious ill-character, constituting extra hazardous risks, the companies might demand an extra premium, and even secure themselves against the possibility of financial loss by requiring a deposit of cash or negotiable securities equal to the amount of the bond. Their agents knew the character of such places if the directors did not.

Believing that the brewers, and the officers and directors of the surety companies were, as a whole, respectable and reputable business men, who would not, when the facts were clearly laid before them, continue to indulge in such practices, the Committee of Fourteen entered into negotiation with both parties, laying before them the facts which they had ascertained. The brewers took the matter up with varying degrees of readiness and good will. Some individuals on their own account made an investigation of the premises controlled by them and cleaned them up. Resolutions were passed, condemning the sale of beer by means of disorderly resorts, and finally, in May of the present year, an agreement was entered into by the brewing interests, signed individually by the brewers furnishing ninety-five per cent of the beer sold in saloons and hotels in New York City, the gist of which is as follows:

We, the undersigned brewers, doing business in Greater New York, recognizing the propriety and importance of doing all in our power to assist in abating the evils caused by the existence of liquor stores, saloons and so-called Raines Law hotels which are of a disorderly character,

Hereby agree among ourselves that we will continue our co-operation with the Committee of Fourteen in their work of abolishing all disorderly liquor stores and saloons.

Our agreement is based upon the understanding that when the committee appointed by the president of the board of trade for the purpose of investigating all places reported to us as disorderly by the Committee of Fourteen, has, after such investigation, decided that a place is disorderly, we agree that we will at once secure the discontinuance of all disorderly practices in such place, or, failing in this, that we will at once withdraw all financial support, discontinuing the supply of beer and bring about, so far as we can, the closing up of such place.

It is too early to state, with any definiteness or detail, the final result of this action on the part of the brewers. Competition is very keen and brewers like other business men are afraid of advantage being taken of them by their rivals. A full condition of trustful co-operation has not yet been brought about between all parties concerned, but considerable results have already been obtained. More important, however, than the immediate result in the suppression of individual resorts is the general principle of co-operation thus established, and the admission on the part of the brewers of their obligation and ability to prevent such traffic.

With the bonding companies the results have been possibly a little more satisfactory. The large, reputable companies have, as a rule, withdrawn from the objectionable part of this business, refusing to issue bonds under any conditions on places which are notorious offenders and known as such to the police and others. Last year an out-of-state insurance company by its agent seized the opportunity to write bonds at a high premium on places which other companies had refused. These places were followed up by the authorities with particular zeal, police and excise department alike hammering them, with the result that the company suffered a considerable loss. Consequently this year conditions are better. The prospect of this evil business does, however, prove tempting, and the committee has been kept busy laying the facts before officers and directors of companies reported to be considering entering the field of excise surety bonding, urging upon them that, as a matter of common decency and good citizenship, they cannot undertake business of this description. The result of this attitude has been to compel infamous resorts to secure personal bonds, a result not altogether satisfactory to the excise department, which believes that this will render it harder to collect on those bonds and therefore more difficult to enforce the severe financial penalty involved in their forfeiture. It has been suggested that such resorts be

allowed to bond through the large companies, securing the risk by deposit of full cash indemnity, in addition to paying a premium. The committee believes that such a course would result in a speedy reversion to former conditions. It is important to make it as difficult as possible for such places to secure any bond at all, and consequently to urge, and also to make it to the interest of, the surety companies to refuse to write such objectionable bonds.

There are many details of the work of the committee which cannot be touched on in the space of such a paper as this. To some extent the general results of its work may be expressed in figures, as follows:—In the year 1905 there were in Manhattan and the Bronx, the field of the work of this committee, in round numbers, 1,400 hotels. There are to-day 800, a reduction of almost fifty per cent, all those put out of business being fake concerns, the so-called Raines Law hotels. Of the hotels at present existing, 550 are of the ten-room variety, which, in the great majority of cases, are dangerous resorts, hotels only in name.

If the law should be interpreted by the courts according to its letter, these would at once be closed as hotels. Of the 250 hotels which really comply with the requirements of the building code, probably about 200 are actually genuine and legitimate hosteleries.

This committee was not organized for the purpose of abolishing or controlling the "social evil" as such, nor with a view to the control of the excise situation as such. Its sphere is limited, as its title shows, to the suppression of the infamous resorts called "Raines Law Hotels," in which prostitution and the sale of liquor are combined in a peculiar form, under the provision of the excise law of New York, known as the Raines law. The committee as such has no theories with regard to the control either of prostitution, or of the liquor traffic. As the result of its work it has, however, gathered much material bearing on both questions.

One thing is clear to all its members, as the result of its work, that in New York City the social evil is closely connected with the liquor traffic. The present writer does not believe that this connection is necessary or ineradicable. The liquor dealers, and especially the brewers, are in part responsible for this condition. They have allowed a traffic, which the present writer believes to be in itself entirely legitimate and proper, to be prostituted for the sake of gain. It should be said, however, that they are not the only ones

who have done this. Very reputable property holders, including not a few women, knowingly lease their property for immoral purposes, because in that way they can secure a larger return. On these people the committee has been able so far to produce little impression, but has ascertained that they do not like to be informed of the facts. Investigation has shown also that some of the steamboat companies, whose officers and directors are quite respectable persons, allow the staterooms on certain of their boats to be let by the hour, or similar periods, evidently for immoral purposes, those boats being in fact floating houses of prostitution. It does not follow that steamboat navigation in the neighborhood of New York is in itself an infamous occupation, but if such practices should spread, stateroom steamboats of a certain class would ultimately become disreputable and the profession of managing them fall into disrepute. Something of this sort has in fact befallen the liquor traffic in New York, partly through the fault of the liquor dealers and manufacturers, partly through the fault of the law and its administration. The liquor dealers, and especially the wholesale liquor dealers, can do very much to divorce the sale of liquor from the abuses now connected with it, and especially from prostitution, and they must take very drastic measures to do so, if they do not wish to see their trade abolished altogether as a menace to society. But it should never be forgotten that there are other agencies which are responsible for present conditions, and above all that the community itself, represented by the Government of the State of New York has been, to a shameful degree, *particeps criminis*, in creating and encouraging "Raines Law Hotels" and the vice for which they stand. This is more, perhaps, on account of the administration of the law than by the actual provisions of the law itself, although that is very defective.

PROHIBITION IN KANSAS

By J. K. CODDING, ESQ.,
President Kansas State Temperance Union, Topeka, Kan.; and
HON. E. W. HOCH,
Governor of Kansas.

Kansas was admitted into the Union in 1861. In 1867 the soldiers of the Civil War commenced coming into the state to make it their home. With the advent of the soldiers began the fight against the saloon. Under the leadership of the Independent Order of Good Templars and the churches of the state these soldiers engaged in the movement with spirit and courage. The contest was waged with varying fortunes until in 1879, when a resolution was submitted by the legislature to the people of Kansas, providing for an amendment to the constitution prohibiting the manufacture and sale of intoxicating liquors except for medical, scientific and mechanical purposes.

Immediately after the submission of this amendment the Kansas State Temperance Union was organized, with Governor John P. St. John as its first president. This organization took the lead in conducting the campaign for the adoption of the amendment. In the fall of 1880, by a majority of 7,837, this amendment became a part of the constitution of the state. The succeeding legislature enacted laws for the enforcement of the constitutional provision, and successive legislatures since that time have made these laws stronger. The several governors of the state have, in their messages, urged that no backward step be taken in the matter of constitutional prohibition.

For twenty-three years prior to 1903 the law was enforced or not enforced according to the local sentiment of the community. In that year the Kansas State Temperance Union organized a law enforcement department to secure a uniform observance of the law in all parts of the state. At that time there were 35 of the 105 counties in the state in which the law was more or less openly violated, and in which the Kansas joint did business. Every large city in the state except two was in open collusion with and taking

revenue in the form of fines from the violators of law, thus permitting the illegal sale of intoxicating liquor. Asserting that the power of the law is in its enforcement rather than in the law itself, the State Temperance Union, with its attorneys, J. K. Coddington and John Marshall, commenced the enforcement of the prohibitory liquor law in those counties where the county attorneys would not enforce it because of the local sentiment in favor of the saloon. They also assisted in many other counties.

In 1905 Attorney General C. C. Coleman began to actively assist in this work, and commenced a number of suits in the supreme court of the state to compel the larger cities of the state to cease taking revenue from the sale of intoxicating liquor. Later Fred S. Jackson, who succeeded Mr. Coleman as attorney general, continued the work begun by his predecessor, and instituted other proceedings, having for their object the extinction of all open violation of this law in the state. The attorney general's office and the Kansas State Temperance Union have worked together, each supplementing the work of the other, until at the present writing the open violation of the law has been stopped in all the counties of Kansas except three, and in these three remaining counties prosecutions, raids, injunctions and abatements are being pushed so vigorously that it is only a question of a short time when the prohibitory liquor law will be enforced in every county and city in Kansas as effectively as the laws against the violation of the rights of person or property. The results following the enforcement of the prohibitory liquor law in Kansas justify every argument that has been made in its favor.

Kansas City, Kansas, is the largest city in the state, and has a population of 100,000. A street separates it from Kansas City, Missouri. Kansas City, Kansas, is the home of the great packing interests and manufacturing establishments of the two cities and is fifth among the cities of the United States in the value of its manufactured products, while Kansas City, Missouri, with its population of nearly 350,000, is thirty-first. W. H. McCamish, upon being appointed assistant attorney general of Wyandotte County, in which Kansas City, Kansas, is located, immediately commenced work against 256 joints that were then paying \$90,000 a year revenue to the city. He was opposed by the business and political interests of the city, and because of want of funds his progress

was slow. He had filed over one hundred cases and was making his work felt when, on the 8th of June, 1906, Hon. C. W. Trickett, of the law firm of Keplinger & Trickett, was appointed to succeed Mr. McCamish.

Mr. Trickett, with the assistance of his partner, Judge Keplinger, immediately began a vigorous warfare against the joints, which resulted in closing them before the first day of July following his appointment. During this time great quantities of bar fixtures and liquors were destroyed, and what remained were moved across the line into Missouri. The business men of Kansas City, Kansas, have given their testimony concerning the effect of driving these places out of existence.

U. V. Widener, assistant city clerk, says:

In twenty-one months Kansas City, Kansas, has almost recovered from as many years of saloon oppression; \$245,042.53 of the city's debt was lifted during the last year when no revenues were obtained from the liquor joints, because there were none. The city tax levies have been reduced twenty cents for each one hundred dollars of assessed valuation. The police force has been reduced from eighty-four to fifty men. The fire department is larger and better than ever before. The police and firemen were formerly paid by the \$90,000 a year collected in fines from the joints. They are now paid in cash by the city.

Larkin Norman, building inspector, made the following report:

My records show the building of new houses in Kansas City, Kansas, in 1907, the year after the closing of the joints, to be the greatest in the history of the city. The increase in the cost of new buildings in 1907 over 1906, was \$468,589. The increase in the number of buildings was 379. In 1907 there were 944 buildings erected, as against 565 in 1906. The cost of the buildings in 1907 was \$1,472,279, and in 1906, \$1,003,690. In additions immediately outside the city there are one-half as many new buildings being erected as within the entire city.

Willard Merriam, of the real estate firm of Merriam, Ellis & Benton, one of the largest in the city, has this to say:

A period of almost two years has given us a fair test as to what strict prohibition will do for a city of 100,000 population. Never in the history of the city since Utopian boom days have we had such a steady growth in the price of real estate or as great a demand as we have had in the last twenty-one months. More property has been sold and more has been improved in that time than in any previous six years.

Testimony of a banker :

It has been a twenty-one months during which bank deposits have about doubled; twenty-one months of the largest activity in building ever known in the history of this city; twenty-one months in which it has been almost impossible to find a vacant storeroom on the business streets in which to locate a business; twenty-one months of the largest growth in population that the city has ever been able to record for the same length of time; twenty-one months of the least crime; twenty-one months of the largest progress made in the building of school buildings and an increase of school facilities; twenty-one months of the largest additions to our milling and factory facilities; twenty-one months of the greatest satisfaction among our retail business men; above all, twenty-one months of the purest city government we have ever had and twenty-one months of the best moral atmosphere this city has ever enjoyed; a twenty-one months during which hundreds of men who were formerly committed to resubmission and who were violent anti-prohibitionists have been wholly converted to the strict enforcement of the prohibitory law and who will use all of their influence and a reasonable amount of their time and money to keep the city clean and free from the influence of the brewers and distillers, as it is free now.

It has been estimated by those who are competent to judge that the enforcement of the law, as it has been enforced here for the last twenty-one months, is a net saving of one million dollars a year to the citizens of this city. (The above is an extract from a letter to C. W. Trickett by C. L. Brokaw, Cashier of Commercial National Bank, the largest bank in Kansas City, Kansas.)

There have been results in Kansas City, Kansas, following in the wake of the enforcement of law, that cannot be measured in dollars and cents. These are some of them: A sanitarium in that city had many cases of delirium tremens when the joints were in operation. After the close of the joints that sanitarium had but two cases in six months. When the joints were running many children were assisted by the juvenile court each month. After the joints were closed this work disappeared and there were but two applications in the succeeding six months, and these were the children of a mistress of a disorderly house. Attendance at the public schools greatly increased. More teachers were employed. There was a large decrease in the number of dependent poor, and in cases of destitution. Not so many persons were sent to the poor farm, and destitution, due to husbands spending money in the joint, almost entirely disappeared. Children in school who were formerly in rags were well clothed. Although the city rapidly increased in population, the number of cases of destitution decreased materially.

One of the most marked changes was the reduction in the number of crimes committed and in the number of persons brought into court charged with crime. The expense of trying criminal cases was reduced \$25,000 a year; the police force of the city was greatly reduced, saving another \$25,000 per year; and the saving in the city government exceeded the amount that was ever received in revenue from the joints. When the joints were running six weeks or more of district court was necessary to try the criminal cases. After the joints closed three weeks in each term was sufficient, with the same proportion existing in every court having criminal jurisdiction in the city. The police judge of Argentine, a suburb of Kansas City, Kansas, found nothing to do, and in the police court of Kansas City, Kansas, there had been from ten to thirty cases each morning under the joint system, as against almost none after the joints were driven out.

All over Kansas the enforcement of the law has decreased crime, shortened the terms of court, lessened and almost rendered unnecessary police protection, decreased the rate of taxation, filled the churches, Sunday schools and school houses, built up Chautauquas and lecture courses, built new churches, made more and greater public improvements in our cities, and inspired the people of this state with a higher sense of their obligation to the government, both state and federal.

There are cities in Kansas besides Kansas City whose experience is worth reading. Junction City, in Geary County, near Fort Riley, the largest cavalry station in America, under the control of the federal government, changed from tolerating the violation of the law to that of enforcing the law, with the following result: The criminal docket in the district court was decreased fifty per cent. In the buildings occupied by the joints we now find in one a ladies' togger, in another a restaurant, in two others picture shows, and in others lunch counters and pool rooms, with nothing to drink and no room for gambling. The criminal element of the town has left and a number of the saloon men are now engaged in other business. The soldiers coming from the fort to the city are better behaved, and during the manœuvres, when several thousand soldiers were on the street, there was almost perfect quiet, and on a picnic day, when there were several thousand strangers in the city and the streets full of soldiers, there were only two arrests for

drunkenness. The banks report an increase in deposits. Business has increased. The closing of the saloons has improved the moral tone of the city.

Fort Scott, a city of 15,000 people, four years ago had sixteen joints, two open houses of ill fame and others not so open, several gambling resorts, a shack for a city jail and officers' quarters, two paved streets, a dilapidated appearance generally, but little interest in church work—a typical hard town. In 1906 local workers and the State Temperance Union gave the town a cleaning up. Now there are no saloons or joints, no houses of ill fame, new city quarters, three times the paved streets that previously existed, and much more being planned, more than \$60,000 spent for new churches and church improvements, \$30,000 for a Young Men's Christian Association building, and more than 1,100 members have been added to the churches of the city within two and one-half years after the closing of the joints. The city attorney of Fort Scott says:

There is no argument for the saloon and gambling houses from either a moral or business point of view. Under the wet rule I had a criminal case almost every morning in police court. Now a case in police court is an exception. The closing of these places has reduced crime to a minimum.

Salina, one of the cities of central Kansas, for years tolerated the violation of the law, then changed and enforced the law. Results here were the same as in other places. Taxes decreased, improvements increased, merchants of all kinds declared that business increased.

During the entire time that the prohibitory law has been in existence seventy counties in Kansas have remained dry, and in three-fourths of the small towns and three-fourths of the townships in the remaining thirty-five counties the saloon has been outlawed.

The voters who are now directing the policies of the state are the young men who have grown to manhood free from the influence of the saloon, and so strong are they in favor of state-wide prohibition that, if the question of saloon or no saloon were now submitted, state-wide prohibition would carry by 100,000 majority.

Kansas has 1,600,000 population. It has on deposit in its banks \$160,000,000—\$100 for each man, woman and child in the state. The people of Kansas own their homes. Kansas has fifty-four

counties that sent no prisoner to the penitentiary during the past year, and twenty-two others that sent but one prisoner each. It has but 780 prisoners in its penitentiary, and 291 of these were never residents of Kansas, but were criminals from other states who committed crimes in this state and were sent to our penitentiary. The United States Government confines large numbers of its military and civil prisoners in its penitentiary at Fort Leavenworth in Kansas, and Oklahoma sends her prisoners to the Kansas penitentiary. There are thirty-seven counties without a pauper.

High license Nebraska, with less population than Kansas, paid last year a government liquor tax of \$2,450,236.94. Kansas paid \$127,682.77. Nebraska paid nineteen times as much as Kansas.

Under prohibition the drunkard has practically disappeared from the state, the saloon is no longer a part of the political or social life of the state, her professional and business men do not use intoxicating liquors, thousands of young men have never seen the inside of a saloon, and thousands of young women, many of them now married and mothers, have never yet smelled the fumes of intoxicating liquors coming from the breath of father, husband, brother, son or lover.

With the demoralizing influence of the saloon eliminated, the earnings of the laboring men of Kansas have gone into homes, books, musical instruments, schools and churches, and Kansas recognizes that "morality, religion and education are the three main pillars of the state, to maintain which government was instituted among men," and that the saloon, the destroyer of these pillars, cannot again exist among us.

Of Kansas, Frances E. Willard said:

Kansas is away out on the picket line of progress where mortal commonwealth has never gone before. It may be called, with entire propriety, the state of First Things—the pleasant garden plat on which God tries experiments with humanity to see how large and free we are capable of growing.

And accepting this sentiment from this noblest of women as the best ever written or spoken of Kansas, having solved the great saloon problem, and having proven that "the only solution of the saloon problem is no saloon," Kansas is now, as she ever has been, holding high her snow-white banner, on which are inscribed in letters of gold her motto, "Ad Astra Per Aspera."

THE SUCCESS OF PROHIBITION IN KANSAS¹

BY GOVERNOR E. W. HOCH.

A constitutional amendment was adopted in this state in 1880 prohibiting the manufacture and sale of intoxicating liquors in this state except for medicinal, mechanical and scientific purposes. The battle for the supremacy of this law has been continuous since then. The liquor interests have contended against it in every possible way; but the law has constantly grown in favor and is now about as well enforced as any other penal statute.

I may say in general that it has been a great benefit to the state morally, educationally and financially. I question whether there are a similar number of people anywhere on earth relatively more prosperous than are the people of Kansas. We have more than \$100 per capita in our banks; nearly one-third of our counties are without paupers in their poor-houses or prisoners in their jails. We have the only state capital in the Union absolutely without a saloon. We have more than a quarter of a million young men and young women over twenty-one years of age who never saw a saloon. In short, we have a higher and better civilization than can be found in any state where the saloon is tolerated. One-half of our counties sent no prisoner to the penitentiary last year, and more than one-half of the prisoners in our penitentiary never lived in Kansas long enough to gain a residence in this state.

These may seem extravagant words, but I believe them to be literally true. The devil never invented a bigger lie than that the saloon is essential to the financial success of any community. We have proceeded for more than a quarter of a century in this state along two fundamental lines: First, that the logical attitude of government toward a recognized evil is that of prohibition, and that the liquor traffic is a recognized evil, we have contended, is attested by every license law, high or low, and has been affirmed and confirmed by the courts, from the lowest to the highest. We have insisted that if the liquor traffic is good it should be as free

¹This statement concerning the accomplishments of prohibition in Kansas was made in a letter from Governor Hoch to the Editor of THE ANNALS.

as the grocery business or the blacksmith business, but that if it is bad no department of government should be in partnership with it. Secondly, we have contended that a business which decreases the earning capacity of a large number, at least, of its patrons, cannot, in the nature of things, be a good thing financially for a community.

The nation is rapidly adopting these fundamental views of ours. Prohibition states and subdivisions of them now cover more than half the territory of the United States, and prohibition governs more than half the people, and our business views of the subject have become even more popular than our moral views of it. The business world is now a great temperance society. No railroad company wants a drinking employee; no merchant a drinking clerk; no one interested in a bank cares to have a drinking official, and the saloonkeeper himself would not ride comfortably on a railroad train if he knew that the engineer had a bottle of his liquor in his pocket. We confidently expect the Kansas idea to become universal.

PROHIBITION AS A PRESENT POLITICAL PLATFORM

BY W. G. CALDERWOOD,

Secretary, Executive Committee of the Prohibition National Committee, and
Secretary of State Prohibition Committee of Minnesota,
Minneapolis, Minn.

Any question to be of such importance as to be made the basis of a political platform must measure up to four tests. (1) It must concern the purpose of the government—the life, liberty and happiness of the people, the establishment of justice, the general welfare, the common defense, the blessings of liberty, or some similar governmental purpose; (2) it must be of such magnitude as to be of real importance; (3) it must be unsettled; (4) it must be capable of settlement.

Questions measuring to but one or two of these tests may properly be in a platform, but may not properly be its basis. The center beam of a real political platform will be found to always measure up fully to the four tests. Take a living and hence dangerous illustration—the tariff. It has been the center plank of more political platforms than all other questions in American politics. Around it have been waged the battles of the past with valor and zeal. Platform builders have laid it as the main stay of their structures, and the level and plummet have trued every other plank to it, but not a platform architect would now dare to line to it, and both of the parties which have been accustomed to forget all else would now gladly forget it.

The reason that the formerly great platform timber has become a cumbrance in the political lumber yard is not hard to find. It concerns to no small degree the purposes of government. Check 1. It is of sufficient magnitude to challenge commercial attention. Check 2. It is unsettled. Check 3. But it cannot be settled. It fails at 4.

We have tried to settle it, but failed. Our fathers tried, but failed. Their fathers tried, but failed. Were commercial conditions (with which tariff deals) static, a shrewd mathematical statesman could settle the question, and an intelligent political party could

adopt his settlement as the basis of a platform, and, when in power, enact the settlement into the law-books and then look for new worlds to conquer. But commercial conditions change, hence the tariff fails to measure to the fourth requisite, and it is an administrative and not a political problem.

Take a dead illustration—the slavery question. Apply the measure of every test to it, and it bulks full—it concerned the life, liberty, and happiness of the people. Check 1. It was of mighty commercial, political and social import. Check 2. It was unsettled. Check 3. It was capable of settlement. Check 4. All of which leads to the general observation that most commercial questions are not true political questions because based upon principles which change with changing commercial conditions; hence, commercial questions rarely merit other than subordinate positions in political platforms. Per contra, moral questions which measure to the tests for platform timber, being based on the changeless principles of moral rectitude should and by the voice of history do form the basis of platforms in the real political contests. And no intelligent reader will be long misled by the prominence of candidates, frequency or noise of brass bands, or other ocular or auricular evidences as to the real issues of a campaign. A political issue is vital. The campaign torch-light procession is not. A “wake” makes a mighty demonstration, but its basis is a corpse. So with many a campaign.

Prohibition is the only present issue that measures to the four tests of basic platform material. It is vitally and inseparably related to the fundamental purposes of government. No issue, present or past, has so concerned the God-given rights of life, liberty and happiness, to insure which governments are established among men.

As to life, in its coarse, corporeal, material sense—the liquor traffic out-butchers Gettysburg every six weeks. As to life in its somewhat elevated sense—comfort, contentment, hope, cheer; the contrast broadens by ten diameters. As to life in its best sense, moral, spiritual, vital, life; a hundred Gettysburgs could not work devastation so damnable as a single night of debauchery. There were 4,000,000 blacks who bore the relatively gentle bondage of bodily slavery. There are probably not less than two and a half times as many who are under the unspeakable inward bondage of habit. That which is imposed upon a man from the outside is

nothing. Death, the Leveler, will come soon at longest and whether good or bad will free him of it. That which is of the life, not merely on the life, is beyond the touch of Death. So when Lincoln compared the slavery of drink to the slavery of shackles he rightly said:

Herein shall we have a viler slavery manumitted, greater tyrant deposed; in it more of want supplied, more of disease healed, more sorrow assuaged. By it no orphans starving, no widows weeping.

And happiness—no time need be wasted to show how this sweet purpose of government is turned to gall and wormwood and ashes by drink. Therefore, prohibition, as a present political issue, does vitally concern the basic principles of government. Check 1. It is a mighty problem, mightiest in the sense shown in the preceding paragraph. Yet, financially, commercially, economically (all bearing the \$) it over-tops the most colossal of problems. Financially it represents a direct and indirect annual outlay of more than the total national debt at the close of the war. The direct and indirect cost of alcoholic liquor for twelve months would lay a pavement of silver dollars twelve inches wide and reaching from Hell Gate, N. Y., to the Golden Gate, in San Francisco. With the money we could buy our annual product of wheat, potatoes, barley, rye, gold, silver and precious stones, and have enough residue to pay all of the dividends of all of the railroads, on all of the stock of the national banks, and the entire expense of our public school system and the pensions of old soldiers. And economically that money is worse than wasted. "No," says some one. "It makes an outlet for barley and hops and corn." But the man who would buy brick and mortar and labor to build a dam to flood and destroy a city would worse than waste the money paid for the material and labor though he would make an outlet for brick and mortar, and employ a horde of toilers. Commercially it is a dead weight. It destroys ambition and ability, and that destroys productivity, and without productivity there is no healthy commerce—in the last analysis, no commerce. I eschew argument to illustrate. On the banks of the Red River of the North are ten cities, five in prohibition North Dakota, and five in license Minnesota. Towns thrive on commerce and die without it. Every prohibition city gained more population during the ten years of the last census than

(578)

its license sister has accumulated during its entire existence, and Grand Forks gained more than three times the total population of East Grand Forks, just across the creek. The prohibition issue is a mighty issue. Check 2.

It is unsettled. On this I venture to be dogmatic! Check 3.

It is capable of settlement. Up to this time it has remained unsettled in the face of many attempts of honest and capable people to solve it, and this was probably inevitable. Edmund Burke said, with a possible touch of cynicism, "The people never do a thing right till they have tried every possible way of doing it wrong." Yet he shot not far wide of the truth. We have tried to settle the question by enacting that a saloon shall have no chairs, screens, games or music,—though no one holds that it is sitting on chairs, or hiding behind screens, or playing checkers, or listening to music that sends the saloon habitue home to chase his children with the boot-jack, or brain his wife with a rolling-pin, or shoot the stars out of the sky, or the life out of his neighbors. It is not the chairs nor the screens nor the games nor the music that play havoc with humanity—it is the booze.

We have had a singular fascination for every measure and method for stopping the traffic that the ingenuity of the mind could devise, except to stop it. The bill of particulars would be tedious. Let us consider the two great prohibition waves, and the one that is now sweeping toward high tide. The first came in the fifties. Its plan was to elect temperance men to the legislature, regardless of party affiliation or policy. It was the first crude attempt of the temperance people in politics, and was so specious, plausible and easy that everybody interested lent a willing hand, and sixteen states swung majestically into the dry column at the hands of Whig, Democratic, American and other temperance legislators. The laws thus enacted fell into the hands of Whig, Democratic, American and other party sheriffs, constables, mayors and prosecutors. The various parties by whom these officers were elected were either hostile or indifferent to prohibition. The infant law was cussed and cuffed and kicked by men who were good enough in general, but as touching the law were wholly bad. The policy fell into disrepute for want of a political sponsor who wished the law to succeed. Its open and protected violation drove even the better element to seek its repeal.

That every one of the sixteen states staggered back into the liquor column ought to be conclusive evidence of the failure of the policy of enacting a law radically opposed by the parties in power and turning its enforcement over to officers elected by those parties. Statesmen have never sought to settle even relatively small political problems by such methods.

The second mighty wave swept over the nation thirty years later. It sought to rectify the former error by engrafting the prohibitory laws into the constitution where they would be safe from the whims of the legislature. John B. Finch, chairman of the Prohibition party, Frances E. Willard, president of the National Woman's Christian Temperance Union, and nearly all leading opponents of the traffic united to bring about this "solution." It was a mighty battle—"The People *vs.* The Liquor Traffic" was the slogan, but the real, though unrealized, fight was "The People *vs.* The Political Parties."

It was with the utmost difficulty, after begging and bullying, pleading and pounding, that the legislatures would submit the question to the vote of the people. Then, when submitted, the leading party politicians, like Wm. J. Bryan of Nebraska, A. B. Cummins of Iowa, and John J. Ingalls of Kansas, would take the stump against it. If it was adopted some scheme to thwart the will of the people would be devised. *Vide* Iowa, whose 30,000 prohibition majority was nullified; Ohio whose 82,000 prohibition majority was ignored, by the treasonable chicanery of the hostile political leaders. Even when the amendment was graciously allowed to become operative, the recreant officials made the law a hissing, a reproach and a by-word in large areas of the states. So again the "settlement" that put the law into the hands of its political enemies and assassins failed to settle.

How, then, could the question be settled. Why not try to settle it the way we settle other political questions? Great problems are solved by framing them into the dominant plank of political platforms, and appealing to the people for their solution at the hands of a political party committed to the execution of the proposed policies on those questions. In other words, the liquor question will be solved when a clear cut and correct policy for its solution is engrafted into a party platform, when that party is elected a power, the law in harmony with the policy is enacted into statute, and the

statute is committed to the hands of sheriffs, constables, mayors, marshals, prosecutors and policemen, all of whom are in harmony with and elected by a political party committed to the policy.

The prohibition issue as a political platform demands the prohibition of the manufacture, sale, importation and transportation of alcoholic liquors for beverage purposes. No one doubts that if the manufacture and transportation is effectively prohibited its sale will stop, even if there were no law prohibiting it, because men never sell that which they cannot get to sell.

There are approximately 2,000 distilleries manufacturing distilled liquors. The government holds the key to every such distillery. There are about the same number of breweries, every one of them under close government inspection. To stop the sale may be a difficult thing so long as the manufacture continues, because it can be sold in secret from jugs, bottles, hollow canes, plug hats, boot legs, tin bustles and hundreds of other ingenious devices, but it cannot be made in a jug or a plug hat or a hollow cane or a tin bustle. It takes a brewery or distillery with tall smoke stacks, acres of floor space, vast tanks and machinery and coal pits, and other paraphernalia, making secrecy impossible, except for the production in such small quantities as to be politically, economically and socially negligible. Therefore, the question is capable of solution. Check 4.

The liquor problem, therefore, looms on the civic horizon not only as a present political platform, but as the only political platform; and it may be safely predicted that the tally sheets at the coming election will challenge the attention of the American electorate to the impending importance of the problem, and push the hands on the dial of progress toward the solution of a question that has been vexatious, chiefly because its solution has been avoided, and its importance scoffed by the men who, on account of their native ability, we have been accustomed to look upon as leading statesmen.

THE BUSINESS TEST OF PROHIBITION

BY A. R. HEATH,
Chicago, Ill.

I will discuss the economic results of the state-wide practice of sobriety. My present object is not to champion any principle, however clear, or to advocate any policy, however strong its claims. This attitude is taken not because I am neutral—the urgency of the liquor problem forbids neutrality—but because I think the interests of truth will be best subserved in this article by the presentation only of facts and concrete results.

It is required to show by undisputed and official facts, and in a way capable of comparison of results in the several states, just what has been accomplished in business lines by the policy of prohibition. In my researches as a statistician, I have been privileged to discover a method of doing this as it never has been done before. I trust and believe that the discovery will contribute to clearness of thought upon the main subject by furnishing a substantial and official basis of recorded facts.

"The Nickel" and Its Lesson

Frequently an important principle can be deduced from a fact which seems very small. Thus it is trite to say that the nickel which the head of the family spends for beer is not expended for bread; yet in that statement is involved a tremendous economic fact: *That coin is lost for all time to that family.* Having been already spent, having already passed into the possession of the liquor seller, it cannot possibly serve the drinker's family in the purchase of bread, or shoes, or clothing, or a home, or an education, or otherwise. The statement is so self-evident that it defies contradiction. Yet I must be pardoned if I dwell upon it for a moment longer. Its economic significance is so great, so overwhelming, that no doubt must be left lingering in the mind as to its absolute truth.

The attempt has been made to break the force of this fact by pleading that "the nickel still exists, that it has not been lost to society, that it still circulates and performs its beneficent office in

facilitating trade." Ah! but that coin has been withdrawn from the family's resources, and its subsequent activities do not cancel the fact that the family needs have been denied and the family exchequer depleted to that extent. At the exact point of time, possibly, when it was most cruelly needed, it has been snatched away from starving fingers, and has been diverted from family needs into the liquor seller's till. Whatever the after story of that piece of money may be, it is everlastingly true that it has been withdrawn from the family's purchasing power.

But the objector may still urge: "The man will earn another nickel to-morrow, and he may spend *that* coin for bread." True, but that reasoning implies that it is possible for the family to live on one loaf in two days instead of one loaf every day; further, it implies that it is an economic benefit that a man shall earn his loaf twice before he gets it once; further, it still fails to meet the main issue that the original nickel has been forever withdrawn from and lost to that family's resources.

There has never been and there never will be an answer to this reasoning, and the original statement stands as absolute truth. It is still a rock-solid fact that the money which the husband and father spends for liquor is not spent for bread for his family, but is subtracted from their resources and forever lost to the purchasing power of that family.

A New Party Interested

I call attention to another party to this transaction who has hitherto remained in the background, but who is now coming forward into a prominence that is startling. We have heard much about the liquor dealer, much about the drinker, and much about the drinker's family, and much, especially of late, about the decreased purchasing power of that family as the liquor dealer increases his clutch upon the family income. But now attention centers upon the *merchant, the man who sells* the bread, the shoes, the clothes, the house; the man who suffers a loss in trade every time the drinker's family suffers a loss in purchasing power. Let us consider him for a moment.

I have said that the economic significance of our original statement was great, and even overwhelming. Of course you have anticipated that while I have been talking about a single nickel spent

for liquor, I have really had in mind the great aggregation of nickels, dimes and quarters shown in our nation's swollen drink bill of two and a quarter billions of dollars. If the single nickel spent for drink is withdrawn from the family's purchasing power, then it is equally true that the great pile of nickels, the two and a quarter billions of dollars, is withdrawn from the purchasing power of the ten million drinkers' families of this country. If this is true concerning these millions of families, it follows that the merchants and dealers and the mechanics and workingmen who supply them, suffer a loss in trade equal to the same enormous amount. Here is a tremendous economic truth; and it is one of the most encouraging facts in our latter-day economic development that *the business men and workingmen of the country are finding this out*. They are discovering the location of a most damaging leak. They are finding out what is hurting them; they are discovering that the liquor traffic is a persistent competitor against all legitimate trade and against honest labor as well.

This is a modern phase of the agitation against the liquor traffic. It spells danger to that traffic. As the business and labor public become aware of these injurious effects of the liquor business, sentiment against it multiplies and its doom is hastened.

Searching for the Standard

As a statistician and an investigator, I have long been aware of these losses to the business world. I have also believed that there must be some way of measuring them and I have felt assured in advance that if such a way could be found, and the results plainly indicated, they would be such as to teach a most important lesson to men of affairs.

In my researches on this line I discovered the need of a "unit" and also of a "basis." The "unit" of comparison must be broad enough and large enough to include a variety of local conditions and a breadth of economic activities. Neither a town nor a county could measure up to this need, so I was compelled to seek for a state. I selected the State of Maine for several reasons. I wished a unit which would embody within itself as broad as possible a view of the economic results of prohibition. In Maine prohibition has been law for more than fifty years. Enforcement has not been uniform. Unfaithful officials and treacherous parties have

been far from true to the law. There have been great fluctuations in the observance of the law's demands. Yet the testimony of life-long residents and high officials has satisfied me that the field of law evasion has been almost entirely confined to centers of population—to those places where density of population has been an inviting field for the "red light" and the "blind pig," and that the country districts have been measurably free from the liquor traffic for nearly two generations.

I found that Maine has a comparatively small urban population; that all its cities of over 8,000 people number only nine, with a combined population of only 164,639 which is less than one-fourth the total population of the state in the last census. Hence, among three-fourths of her population and over more than three-fourths of her territory, Maine has had prohibition fairly well enforced continuously for more than fifty years. No other state has such a record. Hence Maine approximates closely (from a statistician's reasonable standpoint) to a fair representation of prohibition, and the results seen in the state at large may be justly said to be the results due to prohibition. I therefore accepted Maine as my "unit." I placed Maine in a class by herself as the representative of prohibition in a broad way. I knew how the state had been attacked and belittled by the writers of the liquor side, and I accepted the challenge. I said, if the liquor men wish to hold forth Maine as the "poverty-stricken" and "misguided" example of the results of prohibition, I will accept that state as such representative, and will abide by the facts. Maine shall be the unit of comparison.

Finding the "Basis"

Next came the necessity for a method of making the comparison. What shall be the "basis" employed? First, it was apparent that the statements should be unprejudiced and official. I could not present the biased words of prejudiced persons. Next in credibility to government statistics, I would place the word of life-long residents and highly respected officials of the state, leaving as the last and most inferior class of evidence the reports of non-residents of strong preconceived opinions who make flying visits and find (in many cases) what might have been expected under psychological laws, and under pressure where they are sent by employers. However, in this article I have not been compelled to

resort to any doubtful sources, but have confined myself to government statistics.

In a study of the results of a state-wide policy, it seems just to work from a state-wide basis; that is, it is not permitted to pick out individual cases here and there, but to get the broad view as shown in totals for the whole state. One could prove *anything* by individual cases, but the totals are far more trustworthy and significant. In this economic study I decided to take the record of the government census of 1900, showing exactly what lines of business activity were supported by Maine as a whole. In the volume of census reports called "Occupations" I found Maine business classified in Table 32 into more than 370 kinds of activity, with a statement of the number engaged in each kind. In other words, I found ready to my hand an official statement of the extent to which the prohibition State of Maine supported different kinds of legitimate business. This is valuable in the extreme, for such an investigation as ours.

"Per Capita" Wealth

Natural conditions offer natural opportunities. These differ in different states. Ohio, Iowa, or Illinois shows a far more fertile soil than Maine, and tempts Maine's citizens to depart from her sterile shores. Maine's weather conditions, too, are somewhat harsh for invalids or feeble folk, and she loses many such on account of climate. Her population is not dense, and her property valuations do not have the stimulus of congestion. The result of these natural disadvantages is that Maine's property does not mount up as fast as in other states. Her value of all property per capita in 1900 was \$982, which was less than in many of the states. In judging of her capacity to support business, or in other words, in judging of her "purchasing power," the per capita property valuation is most important, for it constitutes a basis of comparison with other states. I would lay it down as a basic principle that the "purchasing power" of a state is in proportion to its per capita property valuation, so that less should be required of a state having \$982 per capita property than of one with a larger valuation per capita. This is self-evident, and argument is unnecessary. If another state has double the natural or acquired resources, it should have double the purchasing power, and consequently should support double the num-

ber of persons or double the volume of trade in the various lines of legitimate business.

The other basic principle in this comparison is that the purchasing power of a state is larger in proportion to the number of people in the state. The more there are whose wants have to be supplied, the greater the expenditure, and the more merchants and mechanics will be required to supply the needs of the people.

Here, then, is a double standard of comparison: (a) the per capita wealth, which indicates the average individual purchasing power; and (b) the number of individuals who do the purchasing, that is, the number whose needs are to be supplied.

The Double Standard Illustrated

To get at this in a mathematical way, let us take Maine's population in 1900, 694,466, and compare it with New York's 7,268,894, which is 10.47 times as great. It is important to include New York's per capita wealth, which was \$1,720, being 1.752 times that of Maine, which was \$982. We multiply the 10.47 by the 1.752, and get a product of 18.34 which is New York's ratio to Maine, Maine being 1.00.

Here then is the "basis of comparison," reached by a double process on self-evident principles, founded on per capita wealth and on population. (I may remark in passing that a shorter process of reaching exactly the same result is to divide the total valuation of all property in any state under consideration by the total property valuation in Maine, and the quotient will be found to be the same number as would be reached by the double process just indicated.)

Figuring Out the Facts

Having found our "unit" and our "basis," we are now ready to make our comparisons, which will be found most significant. Bear in mind, please, that the figures are for 1900, being the latest which have been gathered by the government. Let us now note the comparisons.

In 1900 Maine supported 8,627 retail stores. Illinois should have supported 10.23 times as many, that being her purchasing power as compared with Maine. Hence Illinois should have supported 88,254 retail stores in order to measure up to the standard set by

Maine. But license Illinois fell 32,620 stores short of the example set by prohibition Maine, for Illinois had only 55,634 stores. I firmly believe and maintain that this comparison shows that in the great State of Illinois under the license policy, the liquor traffic in 1900 starved out more than 30,000 retail stores, which would have been in existence to-day (in addition to the present 55,000 stores) had Illinois measured up to the example and reached the purchasing power shown by Maine.

Take the matter of "business concerns" in general. Dun's Commercial Register is authority for the statement that in 1903 there were 14,661 business concerns of all kinds in Maine, while in Illinois (which should have had approximately 10.23 times as many, there were only 89,001, instead of the 149,982 which she ought to have had, in order to reach the Maine standard. Here is a shortage caused by liquor of more than 60,000 concerns, which ought now to be adding to our industries and our volume of trade and our prosperity in Illinois. Maine has set us a standard which we cannot reach while we tolerate the liquor drain upon our resources.

Facts for Workingmen

The number of carpenters in Maine in 1900 was 8,938. Illinois should have supported 10.23 times as many, or 91,435. As a matter of fact she did support only 42,595, showing a deficit of nearly 49,000 as compared with the Maine standard. Nearly 49,000 carpenters in a single state were thus shown to have been starved out by the liquor traffic's drain upon the resources of the people.

Take the masons. Maine being somewhat of a backwoods state, naturally builds a small proportion of stone, brick and cement structures, hence would support a less than normal number of masons. On the other hand, Illinois, with her large cities and towns, builds less in proportion of wooden structures and more of brick, stone and cement. Yet Maine supports 1,784 masons, and Illinois ought to support considerably more than 10.23 times as many, but she does not even reach that number, which would be 18,250, but supports the meager number of 10,256, thus crowding out about 8,000 masons,

Results in Other States

There is no reason for selecting Illinois for this comparison excepting that it is the state where the writer resides. The same line of facts appears in other states, the results varying in approximately the exact proportion in which such states approach the standard of Maine in faithful enforcement of prohibition.

The limits of this article allow only the most compact statements as to other states, omitting comment on each.

California

Ratio: 4.72; *Carpenters*, 15,916; Maine standard calls for 42,187; shortage, 26,271.

Salesmen and Saleswomen, 17,149; Maine standard calls for 25,025; shortage, 7,876.

Retail Merchants, 24,653; Maine standard calls for 40,719; shortage, 16,066.

Dry Goods, 1,238; Maine standard calls for 2,360; shortage, 1,122.

Men's Clothing and Furnishings, 417; Maine standard calls for 1,420; shortage, 1,003.

Massachusetts

Carpenters, 33,011; Maine standard calls for 57,113; shortage, 24,102.

Retail Merchants, 40,994; Maine standard calls for 55,126; shortage, 14,132.

Business Concerns, 53,431; Maine standard calls for 93,683; shortage 40,252.

Bankers and Brokers, 3,291; Maine standard calls for 3,642; shortage, 351.

New York

Retail Merchants, 118,896; Maine standard calls for 158,132; shortage, 39,236.

Business Concerns, 146,322; Maine standard calls for 268,736; shortage, 122,414.

Groceries, 20,650; Maine standard calls for 42,360; shortage, 21,710.

Men's Clothing and Furnishings, 3,785; Maine standard calls for 5,517; shortage, 1,732.

Ohio

Carpenters, 37,390; Maine standard calls for 65,783; shortage, 28,393.

Retail Merchants, 45,180; Maine standard calls for 63,494; shortage, 18,314.

Business Concerns, 84,478; Maine standard calls for 107,904; shortage, 23,426.

Drygoods, 2,684; Maine standard calls for 3,680; shortage, 996.

The writer can give similar information regarding every line of occupation in every state. It is not denied that once in many times the preponderance may be the other way, yet it is so generally in favor of Maine that the rare exceptions prove the rule, and the honesty and accuracy of the figures as well.

The assertion of this article is broadly that a correct and reliable standard has been found, that it is tremendously in favor of the greater prosperity existing in Maine, and that business men and workingmen alike can find in these figures food for careful thought which will suggest appropriate action.

Further developments along this line may be expected, as its economic significance and importance shall become impressed upon the business mind and the business judgment of the world.

THE ECONOMIC ASPECTS OF PROHIBITION

BY ALPHONSO ALVA HOPKINS,
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Prohibition insists, through its advocates, that the beverage liquor business is not a producer of wealth; that it is a prolific breeder of taxation; that it multiplies the non-taxpayers and consumers; that wealth can have no equitable distribution while such business is perpetuated; that the burdens of government cannot be equitably borne while the saloon constantly increases them; that on the plane of pure economics alone the policy of prohibition should be established, for state and nation, as the only just policy possible between man and man and between man and government.

The limits of this article forbid any extended analysis of what wealth is, and of who its producers are. Wise political economy denies that anything is wealth, the destruction of which would benefit mankind. They cannot be true producers of wealth whose production is consumed only or mainly to mankind's losing cost, in comfort, in money, in productive power.

If the teachers of political economy were mere theorists alone, the plain facts of social and political experience, the common admissions of men who have not posed as political economists, would be sufficient to prove true, on economic lines merely, what is claimed for prohibition. Drunken labor, even drinking labor, is not the most productive. Production cannot be at its best where the drink habit prevails. Demand for the fruits of production cannot insure prosperity where the demand is widely discounted by that habit.

The fruits of production are found most largely in the homes of the rich; they should be found, far more largely than they are, in the homes of the poor. Prosperity can be general and constant only as these fruits are generally and widely found. In the interest of producers, purely as a business matter, and without regard to sentiment or patriotism, there should be suppression of whatever limits legitimate demand. It is the right of labor to meet the demand of a sober world.

"At all hazards, and no matter what else is sought or accomplished," declared Theodore Roosevelt in his Letter of Acceptance when nominated for the Presidency, "the American workingman must be protected in his standard of wages, that is, in his standard of living." And the President would doubtless agree that this must be done not only for the sake of the workingman himself, for his own individual comfort and that of his family, but also for the sake of all productive industries which are behind the home where the workingman and his family live, for the sake of the capitalists who are interested therein and whose investments contribute thereto. The "standard of living" in the home of a dollar-a-day hod carrier—a man earning only a dollar a day but soberly spending it—may be as high as that of the boss mason who gets three dollars a day when he works, but who is drunk four days out of the six.

Demand for the products of labor, and this demand alone, will insure fair wages. This demand for these products can be insured only by the sobriety of the laborer and the higher standard of living which this will insure to his home. Make the laborer's pay as high as by any method you can, and then let the saloon rob him of its largest part, and you have not preserved the standard of living that should be his, which, "at all hazards," according to Mr. Roosevelt, should be maintained. Multiply this one laborer by a million like him, and you have robbed a million men of comforts and luxuries they should have had. Multiply this one laborer's home by a million, and you have robbed other millions of workingmen of a demand that should have been theirs, for the products of their sober industry, to supply these million homes with earthenware, woodenware, tinware, silverware; with cotton wear, woolen wear, linen wear, head wear, foot wear; with beds and blankets and bolsters; with chairs and carpets and coal; with stoves and sofas; with pictures and pianos; with music and magazines; with books and brightness; with cheerfulness and content; with all the gladness and satisfaction which come from and are comprehended in the standard of living for which Mr. Roosevelt contended.

Where that standard of living most pitifully fails for the workingman is not where the tariff or free trade defends him least, but where the saloon, the liquor bar, has license to prey upon him most. Find the places in this country where the workingman's highest standard of living prevails, and you will not see an open saloon.

Inspect any town where other agencies and influences have done their best for the laborer, but where saloons live and saloon-keepers wax fat, and you will find a lower standard of living.

Close the saloon doors, and other doors will open. Even if you close them only on Saturday night the savings-bank doors will open that night, as has been demonstrated, to the gain of all but the saloon-keepers. Multiply saloons and you decrease all places of legitimate trade, or you decrease their profits. Reduce these legitimate places below what should be their number for normal supply, and you prove, by such reduction, that the standard of living upon which trade properly thrives is not maintained.

Considering only trade and manufactures, and leaving taxes and the cost of government entirely out of account, prohibition of the beverage liquor business is demanded in the interest of every tradesman and every manufacturer; and there is not a merchant or a mill owner anywhere, there is nowhere a man employed in mill or store, in the factory or on the farm, in the forest or at the forge, whose own direct and immediate selfish and personal benefit does not require that he stand for prohibition of the beverage liquor traffic.

It would seem as if common logic and common sense would be sufficient to attest this claim if there were not a single concrete illustration whereby to prove it. If not a tradesman or a manufacturer, a merchant or a mechanic, had anywhere certified or seen the comparative economic results of trade and manufacture with and without the liquor business to help or hinder, it would seem as if all producers and sellers would apprehend the great percentage of improvement where prohibition is applied, and would insist upon its application as a matter of pure commercial instinct and self-defense.

It appears indisputable, from a large number of authoritative reports, that wherever prohibition has been tried, even under adverse conditions, labor has prospered more generally than before or after under license; that wages have more equitably distributed wealth; that the standard of living has been preserved more widely, with increase of bank deposits, decrease of taxes per capita, increase of taxable values, reduction of municipal and state debt, and the general betterment of both labor and capital. The prevailing testimony runs about like this:

Shenandoah, Iowa—Four thousand people; no saloons; no dis-

order, no vice, no crime, no poverty; nothing for the criminal courts to do; no police; three banks, with more than \$1,000,000 of deposits.

Fargo, North Dakota—Population about 12,000; six years under prohibition; \$1,500,000 worth of buildings erected in that time; not a vacant dwelling or business house; twenty-two miles of paved streets; water works owned by the city and paying 8 per cent; tax 25 per cent less than when saloons were permitted.

Topeka, in prohibition Kansas, and *Lincoln*, in high-license Nebraska, the former with 26,000 population, the latter with 45,000; *Topeka* with no saloons, no saloon revenue, property valuation \$32,500,000, tax rate for city purposes only 56 cents per \$100, expended in paving, of which it has twenty-eight miles, \$216,202, bonded indebtedness \$66,378; *Lincoln*, with saloons and saloon revenue, property valuation \$30,000,000, tax rate 66 cents per \$100, expended in paving but \$47,408 for a street length of but twenty-two and one-half miles, bonded debt over \$1,169,000.

Similar figures can be furnished from hundreds of localities.

Money, to be made, requires producers of it; to be made and kept, requires care and sobriety in the production; to be made and kept or wisely spent, requires proper environment and sober conditions for the producers. The liquor traffic makes impossible or heavily discounts these required conditions. It turns producers into consumers, for whom other producers must pay. It furnishes no producers itself. Not a liquor seller makes a dollar by selling liquor; he only takes it from somebody by whom it was made. Not a brewer or distiller is a producer. Brewer, distiller, barkeeper—each is but a tax-gatherer, a tribute-taker, taking that which he has not earned, giving nothing of positive value in return.

If any town were to assess each laborer and producer in it 10 per cent of his daily earnings and income and compel payment every day, with nothing to show for this when the day's end came, there would be speedy revolution. Yet liquor thus levies daily tax upon the laborer and producer and to a far greater extent as a rule. Every saloon, every bar, taxes at least forty workingmen on an average more than 10 per cent of their earnings with absolutely no compensating equivalent. Prohibition stops this tax.

Prohibition reduces other taxes which are just, which must be paid for the maintenance of government, but which can be reduced

and yet insure better government. The larger the property valuation which manhood produces, the less the tax rate per thousand. The less liquor, the less unfitness to produce, the more production, the more value, the less tax.

Several Ohio towns lately testified as to their tax rate under prohibition as compared with their rate under license, and the evidence all ran one way. East Liverpool, after but one year's trial, and after losing the revenue from fifty-two saloons, lowered its tax rate one mill and three-tenths. Washington Court House lost all the revenue from eighteen saloons, and in three years its tax rate lessened one and one-half mills. Newcomerstown, in three years, after closing its twelve saloons, needed to levy four and a half mills less than under license. Barnesville, after six years of prohibition, found its tax rate three mills and a quarter less.

Excessive per capita taxation comes of too little per capita production or too much per capita immorality and crime. Courts and murders, crime and its punishment, vice and its fruits, cost more than all forms of legitimate and necessary government. Morals may mean all the difference between production and consumption—between the producer who pays taxes and the consumer who compels them. The saloon may mean, does mean, for a great number of men, all the difference between morals and immorality, between productive virtue and unproductive vice.

"The liquor business does not stand on the same footing with other occupations," declared Theodore Roosevelt, when police commissioner of New York. "It always tends to produce criminality in the population at large," he continued, "and lawbreaking among the saloon-keepers themselves." Criminality and lawbreaking are not evidences of morality. Where they exist productive power is discounted and the producers are taxed to sustain and punish the criminals and the lawbreakers. Productive power, which is at the basis of all sound economics, must build asylums and poor-houses, prisons and penitentiaries and jails; the liquor traffic fills them, as to from 50 to 85 per cent of their inmates, and then taxes productive power for their support.

Three years ago, in a daily newspaper without sympathy for prohibition, appeared a dispatch from Carbondale, Illinois, which was headed, "A Moral County," and which ran thus: "Its jail tenantless, with not a criminal case on the court docket, and not a

saloon within its limits, Edwards County may well lay claim to the moral banner of this country. Withal, it is one of the most prosperous counties of Illinois." About the same time the clerk of the Circuit Court of Edwards County testified of it as follows: "There has not been a licensed saloon in this county for over thirty-five years. During that time our jail has not averaged one occupant. This county has sent but one person to the penitentiary, and that man was sent up for killing his wife, while drunk on whisky obtained from a licensed saloon in an adjoining county."

In the last twenty-five years only, outside this moral county of Edwards, which has had no saloons, and inside the bounds of this republic, which has about 250,000 of them, the number of murders has increased proportionately four and a half times as rapidly as population, and the per capita increase in the consumption of liquors has been about twofold. Will thoughtful men deny any relation of one fact to the other?

Mrs. Barney, of Rhode Island, has told of visiting one prison where there were 1,100 convicts, of whom, according to the warden's testimony, 85 per cent came there through drink. Many other wardens have testified in similar fashion.

Mrs. M. J. Annable, of Brooklyn, vouches for the record of one woman reared under saloon influences and in the atmosphere of drink, and led down by these to the lowest immoralities, who died at fifty-one years of age, but whose descendants have been traced for seventy-five years (from 1827 to 1902), to the number of 800, of whom 700 have been criminals, convicted each at least once; 342 drunkards, acknowledged so beyond question; 127 immoral women, and thirty-seven murderers, executed for their crimes; and, according to Mrs. Annable, through this one woman and her progeny the saloon and its immoral allies and their criminal tendencies have cost the producers of this nation at least \$3,000,000.

"The worth of civilization is the worth of the man at its center," declared President Roosevelt, in a speech which he made in Maine, where possibly his thought was impressed by the state's prohibition policy. To insure value in man we build schools, at once the fruit and the stimulus of productive power; we hire teachers to serve in them; we pay taxes to support them; we fly the Stars and Stripes above them, in token that here we are developing and maintaining, in the citizenship that is to be, those mental

and moral qualities out of which producers and patriotism are molded and productive patriots are made.

Having done all that we do for "the worth of the man at the center," for his development in value as the unit of national wealth, it is not economic wisdom, it is not even plain commercial common sense, to maintain a system of license for an evil which contributes no element of worth to his physique, his productive power, or his patriotic life, but which robs him of the money he has earned or might earn, cripples the manhood in him which it is the duty and the imperative need of government to develop and protect, corrupts the morals which in a republic are the essential foundation of citizenship, and must be perpetuated, at a cost the nation cannot afford to pay, under any other policy than absolute, nation-wide prohibition.

"I will make a man more precious than fine gold," was the Divine estimate of human values. The only wise economic solution of the liquor problem will come when and to the degree that human estimates approximate the Divine.

EXCEPTIONS IN A PROHIBITION LAW—PROBLEMS OF ENFORCEMENT

BY HONORABLE CHARLES A. POLLOCK, LL.D.,
Judge of the Third Judicial District of the State of North Dakota,
Fargo, N. D.

When the people of North Dakota, in 1889, adopted their constitution, the manufacture and sale of intoxicating liquor *as a beverage* were forever prohibited. The legislature during its first session, passed what is commonly known as the Prohibitory Law, which, among other things, provided a procedure for securing proper enforcement—the constitution itself not being self-executing. The first section of the prohibitory law embodies, in substance, the language of the constitution against the sale as a beverage, and adds the following:

Provided, That registered pharmacists under the law of this state may sell intoxicating liquors for medicinal, mechanical, scientific, and wine for sacramental purposes, as hereinbefore provided.

This permission to sell for “excepted purposes” was a recognition by the legislature that the evils coming from the sale of intoxicating liquors did not arise where the use was for medicinal, mechanical, scientific or sacramental purposes. It is of the sale for the “excepted purpose” that I am asked to write.

There can be found those who would not have any dealings in intoxicating liquors whatsoever; others believe them to have their proper and necessary use in the arts, sciences, and for medicinal purposes. Not a few, also, conscientiously believe that a fermented wine is necessary for sacramental purposes. A distinct recognition of the right of the people to determine this question of the use of liquors for non-beverage purposes induced the legislature to add the proviso clause. The legislature was here confronted with a very delicate question as to the method of conducting sales for the excepted purposes. Experience in dealing with the liquor traffic has taught legislators that evasions of law will constantly occur, nowhere possibly more than among those engaged in selling liquor for beverage purposes. Being conscious

of the fact that the efficiency of the law might be destroyed by evasions, it was provided that no one but a registered pharmacist could sell, and around the sale by pharmacists were thrown a great many safeguards.

As one of the committee having in charge the preparation of the law, I know that this question received a good deal of attention. The prohibitory liquor law of North Dakota is copied quite largely from the law of the State of Kansas. After considering the question of the sale of liquor for the excepted purposes upon prescription, and being advised that such a plan had been adopted in Kansas with no great measure of success; and further being informed that the law of Kansas as it then stood was giving fair satisfaction, it was concluded to adopt the Kansas method in its entirety, and we have been living under that system now for the past nineteen years.

The theory of this plan, it would seem, is that the responsibility must be placed in the hands of some trusted person. Most of the sales in good faith would be for medicinal purposes, and it was thought that no one would be better qualified or could be better trusted than a regularly licensed pharmacist. Even he could not, under this system, secure a permit unless he was vouched for by eighty per cent of the reputable freeholders having the qualifications of electors in his town or ward, and seventy per cent of the reputable women therein over the age twenty-one years. His conduct, also, in the handling of liquor, the making of reports to the county court, and the publicity with reference to them required, all seemed to be of value in preventing unlawful sales. This plan also required the person securing the liquor to make affidavit of the purpose for which it was purchased, and prescribes the usual penalties for perjury in case of false affidavit. I may say that in this state there are large numbers of pharmacists who honestly and in good faith are trying to carry out the true spirit of the law. In a recent conversation which I had with the president of the pharmaceutical association, he told me that the association, as a body, was interested in the obedience to this law to the extent that it was itself investigating violations thereof, and that the association proposed to add severe penalties in case of its infraction. He admitted that there were quite a number of persons who had become pharmacists and had started drug stores with the general

aim of selling intoxicating liquors as a beverage, clearly in evasion of law.

It will be noted here that druggists are not permitted to sell beer, so that their delinquencies if any occur, are connected with the sale of whiskey, brandy, alcohol, and other spirituous liquors. The love of gain has induced many pharmacists to enter a systematic method of sales for beverage purposes, and it now becomes a practical question whether under all the conditions, this plan is the best calculated to reduce the unlawful sale for the excepted purpose to the minimum. Or, is there some other system by which obedience to law can be better maintained?

After watching conditions in this state with some care, for the past twenty-seven years, I am of the opinion that with certain amendments to our statute the present system is perhaps as good as any which can be adopted. Convinced that the great body of pharmacists are opposed to the violation of law, and that we have to deal only with a criminal class who are operating under the cloak of their membership in that association, I believe that if more stringent methods are required, first, to secure the permit, and, second, with reference to the returns thereon, better, and I may say more satisfactory results will be obtained.

Under the present law, permits are granted in any county by the county judge. It stands to reason that if a majority of the people in any county are in favor of the violation of the law, they will elect a county judge who would be willing to grant a permit to irresponsible persons, and will not be overly zealous in requiring proper returns of the sales to be made. To avoid this difficulty, it would be better to have the permits granted by the district judge; no permit to extend for a longer period than two years. During those two years the permit should be subject to revocation after a hearing had and a showing made that the pharmacist was not in good faith living up to the terms of the law. In case of a renewal of his permit he should be required to come before the court with all the records of his sales during the preceding period, and affirmatively show to the court that he has in good faith carried out the spirit of the law. The burden of showing such good faith being on him.

There will be technical violations, but no right-minded court in Christendom would take away a man's permit for a technical

violation of law. Notice of the time and place for the hearing upon an application for a permit should be given, both in the newspapers in the town or village where the pharmacist proposes to make the sales, and also by posting the same in a public place in said ward or village. Such notice to be given at least thirty days before the time appointed for the hearing; at which time the prosecuting attorney of the county shall appear for the people, and make full investigation of all the acts done by the applicant for the permit. At such hearing, if it appear that an unusual amount of sales in large quantities, or under suspicious circumstances, have been made, then the permit should not be renewed. I am also persuaded that the amount of liquor permitted to be sold should be of a very small quantity, unless in a very few excepted cases, as for example, where alcohol is purchased for the purpose of baths, and where the same is to be used for fuel or in the arts, and in those cases the pharmacist should be required to make no sales to persons unless they are thoroughly identified. He should also be required to make a special certificate setting forth the reasons why so large a quantity was sold at one time, with such detail that the state's attorney, or any other person, if he sees fit, can examine into the facts therein stated and ascertain their truthfulness. If it should be found, upon inquiry, that such statement was in any manner false, the pharmacist should be subject to prosecution for perjury, the statement thus made being considered as given under an official oath, which oath should be administered at the time of securing his permit. He should be required to state in the affidavit thus made that he would in good faith obey all of the laws with reference to the sale of intoxicating liquors.

The actual experience of the druggists indicates that they are sometimes made the victims of their own friends, and are induced to sell a pint, or even a quart, of whiskey for a beverage rather than medicinal purposes. Not wishing to impugn the motives of the purchaser, they thus become the victims of good fellowship. If they were confronted with the fact that in each and every instance where sales in as large quantities as that I have just mentioned were made, a falsely written statement as to the causes for the same would subject them to the possibility of being prosecuted for perjury, I think violations of this description, at least in a measure, would be prevented.

Accurate account of the amount of liquor purchased and sold by the pharmacist should be kept, and the amount and extent of the business thus hedged about, so that full inquiry concerning the same could be had at any time. Of course, if a pharmacist is going into the business of selling whiskey, as a beverage, and does not make any records, he thereby loses his status as a pharmacist, becomes an ordinary blind-pigger, and should be dealt with accordingly. I believe in dealing with the pharmacists that the law officers of the state should proceed upon the assumption that they are obeying the law. If they find, however, that their faith has been misplaced, then more stringent measures can follow, such as arrest and trial—or closing up the premises under injunctive methods.

In the last analysis, if liquor is to be sold for the excepted purposes, there must be some place found, or some person secured, in whose hands it will be safe to permit such sales, and I am fully persuaded that with the amendments to our law as here suggested, together with others which might be added upon more mature reflection, the best system would be secured.

The objection which comes to the method of selling for the excepted purposes upon a physician's prescription I understand to be that it invites the giving by physicians of blank prescriptions. The possibility of detecting the unlawful issuance is hedged about with great difficulties. It entirely relieves the druggist from any responsibility. All he has to do is to see that he has a prescription, when his protection is complete.

The development of the prohibitory liquor law must of course be gradual. Methods of enforcement become matured when conditions are met, and new conditions are constantly arising by reason of the possibility of evasions of the law. The pharmacist who sells liquor does not do it in the open fashion which appears in the saloon. Naturally the prosecuting officer makes his first attempt at enforcement as against what is in actual sight. In our state such has been the case, and the attention of the prosecuting officers has not been directed toward the unlawful sale by the druggists, as perhaps it should have been. More vigorous efforts are being put forth as against the criminal pharmacist at this time, and the sentiment of the people is becoming aroused, so that in all human probability the next few years will produce vast changes

in the number of persons violating the law through apparent legal right to sell. When a few more druggists go to jail and pay heavy fines, and a few persons who have purchased liquor of druggists and committed perjury in order to get it, are on their way to the penitentiary, violators of law will become aroused to the fact that there are at present penalties existing which ought to command their attention, respect and obedience.

THE RESULT OF THE TEACHING OF THE EFFECT OF ALCOHOL ON THE HUMAN SYSTEM

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The discussion of the teaching of the effect of alcohol must begin with the legislative work requiring this instruction. There had to be an arrest of thought on the subject of alcohol before any law could be passed requiring that the child in the school room be taught the truth concerning the nature and effects of alcoholic drinks, and of narcotics in general. The United States was deriving revenue from the sale of alcoholic liquors, the people were not certain that such drinks, taken moderately, were bad. The convictions of the people had to be changed regarding alcohol before any law could be passed. The first work, therefore, which had a clear, definite result was the creation of the sentiment regarding alcohol that crystallized in laws for compulsory education. These are now written upon the statute books of every one of our states, and of the United States. As the Woman's Christian Temperance Union reads these laws to-day, it sees back of them an education of the people who were the lawmaking power. It sees years of agitation through the pulpit, platform, the public press, every possible agency that could be used for the dissemination of truth. It clearly realizes that a very large part of the attitude of the people to-day toward alcohol began in the agitation for the first compulsory law for scientific temperance instruction in the State of Vermont. This law was enacted in 1882, and the agitation went on in every hamlet, village, and city of the United States, until every legislature had been educated up to the point of passing a similar or far better law.

Side by side with the legislative work went one of even farther reaching importance in its results,—the bringing together the facts from scientific investigation concerning alcohol and putting them

in such a form that teachers could intelligently present the truth concerning alcohol to the children with the aid of well-graded text-books. An unwritten science had been engrafted upon the public school system, and the text-book had to be created. The advice, "Be understood in thy teaching, and instruct to the measure of capacity," was the principle underlying the preparation of the new text-books. Sir Benjamin Ward Richardson, of England, had published his studies on alcohol, its nature and effects upon the human system, and these demonstrated facts, carefully incorporated with other facts in physiology and hygiene, formed the basis of the teaching.

In 1905, a committee was appointed by the American Academy of Medicine to make a careful study of the text-books of physiology and hygiene that were being used in the public schools at that time. More than three years were given to investigation and the salient portion of the report reads as follows: "The subjects have been simplified until we have thirty-seven text-books for elementary grades, reaching thirteen and one-half million children who go no further in the school. . . . Twenty-two years ago, the time of the enactment of the first law, there were practically none.

"The average proportion of hygiene is one-third of the modern text-book, a little more in elementary grades, and less in the high school. A very few give more than half their pages to it.

"Scientific progress is reflected not only in many details of accuracy of statements, but also in added teachings concerning cells, cerebral localization and the nervous system; bacteria, communicable diseases, dust, antiseptics; inspection of schools, foods and milk; common intoxicants and patent medicines.

"There are fewer pathological details (or they are selected with greater discretion) and more attention to the normal states. The ideal of a healthy, active, physical life as a basis for success and happiness is kept in the foreground and made more interesting. That 'success depends on health' is fortified in several books by numerous lately discovered facts in school work and business life."

The result, then, of this preparation of text-books was to bring to the public school a new ideal in the teaching of physiology and hygiene; for, as Professor L. D. Harvey, the newly elected president of the National Educational Association, says, "The aim of scientific temperance instruction is, first, to have the pupils learn the

natural action of each organ, that they may understand how to keep them in good order; second, to show that all bodily organs are so related that when one suffers the others suffer also; third, to help the pupils to recognize what a splendid thing it is to possess a vigorous body and abounding health and to realize that a sound body is an essential factor both in the problem of making a living and in the broader one of making a life; fourth, to make the pupils feel that it is both a matter of manly pride and of moral duty to keep the house we live in clean and strong and wholesome; fifth, to teach the bad effects of stimulants and narcotics in a sensible way, by laying less stress upon the drunkard's stomach and hob-nailed liver, and more upon the joy of possessing a body, strong in limb, rich in clean blood, steady in nerve, clear in brain, needing no other stimulant than plenty of pure air, wholesome food and invigorating sunshine."

Dr. Luther H. Gulick, physical director of the schools of New York City, says, in his preface to *Good Health* (Gulick Hygiene Series), "During the past few years important contributions have been made to the fund of material bearing upon the effects of the use of alcohol. These contributions have come partly from scientific work in Germany, England and America, partly from recent careful investigations concerning the interrelations of drink with crime and pauperism, and partly from the practical anti-alcohol requirements on the part of large business corporations. The facts, so contributed, together with those more generally known, furnish a story of such exceptional vividness and power that in regard to scientific instruction on the subject of alcohol and narcotics we cannot but be faithful to the demands of school law in the various states." How scientific text-books are regarded by educators may be seen by the following letter written to Dr. C. F. Hodge, of Clark University, by Dr. A. F. Waters, superintendent of schools, Georgetown, Ohio:

DEAR SIR: This letter is prompted by a temperance story found in a little book entitled "Good Health," just published by Ginn & Co., a copy of which the publishers were kind enough to send me. The basis of the story is the result of a series of experiments by yourself upon some kittens and pups which had been given alcohol in their food for quite a period of time. The facts, as set forth in this article, appeal to me as one of the greatest temperance lessons I ever saw given. We are giving the story, if I may call

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it such, to all grades in our school. The story of the effects appeals to the judgment of our pupils as no other temperance lesson has ever done.

In the "Declaration of Principles," formulated by the National Educational Association at their convention of 1908, there is this significant statement, "The National Educational Association wishes to record its approval of the increasing appreciation among educators of the fact that the building of character is the real aim of the schools and the ultimate reason for the expenditure of millions upon their maintenance." How scientific temperance instruction in the public schools helps in the molding of character may be seen from the following statement of Mr. Charles S. Davis, superintendent of schools in Amsterdam, New York, in 1897: "I have had several years' experience in another state (Pennsylvania), and in a school of more than seven hundred pupils. I saw the continued teaching of temperance physiology at the hands of wise teachers build up in that school a sturdy, well-grounded opposition on the part of the children to the use of tobacco and alcoholic beverages in all forms, which finally crystallized in the formation of a school society by and among the pupils, with a pledge that was voluntarily signed and supported by more than ninety-five per cent of all the children in that school."

The results of scientific temperance teaching have not been confined to the formation of character of the pupil alone. A few instances of individual cases which have come to me through personal investigation will reveal the far-reaching influence of this study. A little Bohemian girl in the City of Chicago became intensely interested in the lesson taught her in the fourth grade of one of our Chicago schools. She carried the information home to her father that beer contained alcohol and that alcohol was poisonous in its effects. The father went to see the teacher, talked over the nature and effects of alcohol with her, and decided that beer was not only harmful, but an exceedingly expensive drink. He was engaged in work where he was given lemons from which the juice had been extracted. He decided that sufficient juice still remained in the lemons to give a flavor to the water drunk by the family. So he substituted this mild form of lemonade for the beer which he had previously used. The little girl is now a woman grown and no alcoholic drink has ever been used in her father's home since that time.

Again, a high school teacher in S——, Washington, who had in her classes two young men, sons of a wealthy wholesale liquor merchant, told me the following: At the close of the senior year of the older boy the father conceived the idea of opening a retail department in connection with his wholesale establishment and putting the two boys in charge of the two businesses, paying each of them eighteen hundred dollars a year. When he was remonstrated with by the teacher for putting the young men into places of such temptation, he said to her, "I have taken care of that. I know just as well as the boys do the truth they have had in the schools concerning strong drink and I have had them both swear before the priest not to touch one drop of liquor while they are in the business."

A wealthy wine grower in the State of Texas who had been given a toast to which he was to respond at a banquet of his local high school said, concerning the influence of the public school teaching on the character of the pupils, "My boy is the smartest boy in Texas. He will not drink my wine and my wine is the best wine made in Texas; but he says that the books say alcohol hurts the brain, that it unsteadies the nerves, that it affects the whole system and he will not touch it. He wishes to have a strong body and he has it. He is the smartest boy in Texas." These cases might be multiplied *ad infinitum*, for careful investigation has been made in a number of states as to such effects upon individual life and the life of the homes from which the children come. In view of such facts, the conclusion reached by Dr. Samuel J. Barrows is self-evident, that "one reason for the silent, steady growth of temperance sentiment is the systematic and semi-scientific temperance teaching enforced by moral and religious precept and example, organized and stimulated in the schools throughout the country by the Woman's Christian Temperance Union. A new generation has grown up and found that alcoholic drinks are not necessary for health or happiness."

It is not probable that the present rules of large business houses came directly from scientific temperance teaching in the schools, but this teaching must have set all intelligent men to thinking so that when the great Western Electric Plant, of Chicago, noticed that in their shops a larger number of accidents occurred uniformly in the early afternoon rather than in any other part of the day, they immediately suspected the cause. It seemed to be a clear case

of cause and effect, for they found out that in almost every case the victim of the accident had taken beer with his lunch. The teaching of the schools thus found proof in actual experience, and an order was issued forbidding any one to bring beer upon the grounds, or into the building upon penalty of dismissal from the employ of the company. When a scientist, like Dr. Lauder Brunton, proves that "alcohol increases the reaction time, the time for discrimination and the time for decision, that it makes all the nervous processes slower, but at the same time has the curious effect of producing a kind of anesthesia, so that all these processes seem to the person himself to be quicker than usual, instead of being, as they really are, much slower," and such facts are learned by the high school boy, it would be strange if the keen insight of the modern railroad financier did not at once see the reason for the failure of his employees to distinguish signals and protect himself and his business accordingly. In 1896 one of the officers of a large railroad corporation was asked "What led to the order issued by your company forbidding the employment of men to run trains who are users when on or off duty of alcoholic drinks or tobacco?" The reply was "Why, even the children in the public schools know that tobacco, as well as alcohol, blunts the perceptive faculties. You cannot expect to teach these things to the children and trade not take the hint. We want the men who run our trains to be in full possession of their faculties. We want the best service a man can give for the money we pay him. We are surer of getting that from the men who neither smoke nor drink and that is the reason why we forbid these habits in the men in our employment."

Recent legislation shows perhaps more clearly than anything else the results of teaching in the schools the nature and effects of alcohol. In 1890, the Supreme Court of the United States, in response to the demand for compensation for a revoked license to sell alcoholic drinks, handed down this decision: The injury from alcohol "first falls upon the drinker in his health, which the habit undermines, in his morals which it weakens, and in the self-abasement which it creates. As it leads to neglect of business and waste of property and general demoralization, there is no inherent right of the citizen to sell intoxicating liquors by retail." A lawyer, and ex-United States Senator of national fame, in commenting on this decision, said: "The right to prohibit the sale of alcoholic drinks

is based on the decision of science that alcohol is not a food, but a poison." Now multiply this decision by the many decisions involving alcohol in the different courts of the different states and some idea may be formed of the value of teaching in the schools the demonstrated fact that alcohol is a poison and therefore a prohibitable substance. In 1901 Senator J. H. Gallinger, in his speech upon the law prohibiting the sale of beer or alcohol in any form to our soldiers in army posts or canteens, quoted passages from a school physiology showing the harmful effects of beer. Can we doubt that such teaching in the schools of the nation lies back of the many temperance laws that have been enacted during the past decade?

Well did the German philosopher say, "What you would have your people, that put into your schools." The demand of the banks to-day in employing young men is that they not only do not use alcoholic liquors, but that they shall not be seen in places where they are sold. About one million men are required by the great railroad companies to be total abstainers. The large manufacturing companies and the corporations engaged in commerce are making the same requirements, for steam and electricity are the motive powers of the present industrial world, and the teaching of science that alcohol is a brain poison shows clearly that the workman using it is unfit to handle these things. When one reads in a text-book, as in the "Human Body," by H. Newell Martin, D.Sc., M.A., F.R.S., that the results of the use of alcohol are as follows: "He who was prompt in the performance of duty begins to shirk that which is irksome; energy gives place to indifference, truthfulness to lying, integrity to dishonesty. For even with the best intentions in making promises or pledges, there is no strength of will to keep them. In forfeiting the respect of others, respect for self is lost, and character is overthrown," he does not wonder that the result of such teaching, carried into business, is that no railway, telegraph, telephone or factory manager is willing to entrust the management of costly equipment and the protection of hundreds of human lives to one who is addicted to the use of alcoholic liquors.

Many years ago the results of the teaching of the nature and effects of alcohol upon the human system were recognized abroad, and the English press argued that the rank of the United States in the world's commerce was due to the greater sobriety of the American workman. This sobriety was attributed to the temper-

ance teaching in the elementary schools. Accordingly, in 1904, upwards of fifteen thousand members of the medical profession in Great Britain and Ireland petitioned for compulsory education in hygiene and temperance in their public and elementary schools, with the present result that hygiene and temperance are a part of the English public school system. Sweden accepted the same methods for inculcating the truth, and even sent her teachers to the United States to learn how to teach physiology and hygiene with special reference to the nature and effects of stimulants and narcotics. France began the teaching of hygiene in her schools in 1897. Finland made the teaching a part of her public school system, with the result that in the few years which it has been taught, the consumption of liquors has decreased from twenty litres to two litres per capita. The Woman's Christian Temperance Union is now introducing this instruction through special missionaries sent for the purpose into Japan, India and China. Thus the result of the teaching of the nature and effect of alcohol on the human system in the United States is bringing about the same teaching throughout the world. In consequence of this teaching, an intelligent interest in all that pertains to good health has naturally followed. This is recognized as one of the important results of scientific temperance instruction, for in the *Journal of the American Medical Association* of 1900 we read: "The people of the present day exhibit more intelligent interest in the discussion of sanitary problems, both public and private, than any preceding generation and this interest seems to be steadily increasing. A large share, in our opinion, in this country, at least, may, with justice, be attributed to the systematic study of physiology and hygiene, including the scientific temperance instruction which for some years has been a part of the regular course of study for pupils in our public schools."

That such results as the foregoing may accrue from any system of education but proves the truth of Lord Brougham's words: "Let the soldier be abroad if he will, he can do nothing in this age. There is another personage, a personage less imposing in the eyes of some, perhaps insignificant. The schoolmaster is abroad, and I trust to him, armed with his primer, against the soldier in full military array."

THE REGULATION OF THE LIQUOR TRAFFIC IN ENGLAND

BY MISS AGNES E. SLACK,

Acting Vice-President of the National British Women's Temperance Association and Honorary Secretary of the World's Woman's Christian Temperance Union.

Until 1853 liquor shops in Great Britain were open day and night under no time-limit restrictions. In 1854 Sunday closing was secured for Scotland and the hours of sale in England were limited. Ten years later an act was passed forcing liquor shops to close the sale of intoxicants at midnight. In 1872 the hours for the sale of liquor in all public houses were reduced by twenty-four hours a week. In 1881 the Welsh Sunday Closing Act was passed, also an act prohibiting the serving of spirit rations to youths in the navy. In 1882 the passing of the Licenses Amendment Bill led to the refusal of a large number of beer-house licenses. In 1883 acts were passed which prohibited the payment of workmen's wages in drink shops and the use of drink shops as Parliamentary election committee rooms.

In 1886 a bill was passed which checked the sale of intoxicants to children; 1887 the Truck Bill prohibited the part payment of agricultural laborers' wages in drink, and the Scotch Early Closing Act closed every liquor shop at ten p. m. in towns of less than 50,000 people. In 1897 the Irish Sunday and Saturday closing bill was passed. In 1901 the Child Messenger Bill made it illegal to serve children under fourteen years of age excepting in sealed vessels.

Many other acts have been passed, but the above list gives the general trend of temperance legislation. In 1904 the Conservative Government passed an act which gave the licenses to the brewers. For nearly 400 years the brewers had been recognized to be the property of the nation. This serious retrograde movement we are now trying to retrieve.

Attempts have been made in the direction of municipal regula-

tion. A scheme, under the erroneous name of "disinterested management," was five years since pushed by some old-tried temperance leaders, but the temperance societies disassociated themselves from endorsing a propaganda which if carried into law would have made the people generally share in the profits of the traffic. Since the money would be diverted from brewers and shareholders to companies which after receiving dividends for the money they had invested, would use the surplus for public parks, almshouses, etc., it was felt that the scheme would popularize the traffic.

I have several times visited Norway and Sweden and investigated the working of their municipalization laws. An impartial scrutiny has strongly turned me against all such schemes, which corrupt citizens by creating a partnership between them and the liquor traffic. So strenuous opposition of our temperance societies has prevented any such mischievous anti-temperance laws being adopted by our Parliament.

To-day we are facing the most serious situation our nation has ever been called upon to meet. Our brave government has introduced a licensing bill which has the support of all temperance organizations and which the liquor party and the powers of evil in this country are opposing most unscrupulously. The bill, if carried into law, will handicap a traffic which is creating such enormous evils as no legislation has ever done. It would directly lessen disease, crime, lunacy and pauperism and the general physical and mental deterioration of our people for which drinking habits are so largely responsible.

What the Licensing Bill Proposes

The licensing bill of 1908, introduced by Mr. Asquith on behalf of the government, contains forty-seven clauses, and included in its provisions are the following:

1. *A time limit* of fourteen years, from April, 1909, to the compensation clauses of the act of 1904. At the end of fourteen years all licenses are to be considered new licenses—subject to payment of monopoly value.

2. *Reduction of licenses.* A gradual and compulsory reduction in the number of licenses, so that at the end of fourteen years they shall not exceed one license to every 400 persons in country places. In towns, the proportion is to vary between 1 to 500 and 1 to 1,000 of the population. Extensions of licensed premises to be liable to pay monopoly values.

3. *Sunday sale of drink* in the provinces to be limited to one hour in the day time and two hours in the evening. The bona-fide traveler will have to go six miles instead of three before he can be served with alcoholic drink.

4. *Magisterial discretion.* The power taken from the licensing magistrates by the 1904 act to be restored and enlarged—thus, the local licensing authority will be enabled to impose conditions on licenses regarding Sunday closing, consumption on the premises; closing on election days, exclusion of children from drinking bars, the employment of women and children, the long pull, etc. The appeal to Quarter Sessions is to be abolished in large boroughs, such as Leeds.

5. *Compensation.* The levy for compensation is to be national and compulsory. A better method of assessment is to be adopted, and *the licensee* will, under this bill, be better treated than under Mr. Balfour's act. In introducing the bill Mr. Asquith said: "I think the interests of the tenants, of the actual license holder, the man who is carrying on a public house, were very unduly considered, the license holder got very little out of the compensation; the great bulk of it has gone into other pockets."

6. *Local option* is to be applicable immediately to new licenses, and the same principle shall after the termination of the reduction period become exercisable in such manner as Parliament may determine, both as to prohibition and as to the limitation of the number of licenses.

7. *Clubs.* The freedom of clubs is interfered with as little as possible, but power is given to the justices to stop bogus drinking clubs.

8. The bill also deals with the abuse of beer-hawking, control of off-licenses, betting on licensed premises, sale of drink on passenger vessels, and other points of immediate and practical value.

By reducing the number of licenses drunkenness would quickly decrease. In Liverpool, in 1889, 16,042 persons were charged in court for drunkenness. Between the years 1889 and 1901 339 drink shops were closed and the drunken cases fell to 4,327. The chief constable stated this remarkable reduction was due to the decrease in the number of licensed houses and the stricter supervision of licensed houses.

We are working for the non-employment of women in drinking bars. At the age of twenty-five most of the barmaids are discharged, and the physical and moral unwholesomeness of their employment unfits many of them for future useful careers. We are urging the government to strengthen the clause of the bill referring to children so as to make it statutory that no child can enter a public house. They can go and buy liquor in sealed vessels. The associations of our drinking places have a contaminating influence on the children of our country.

The British Women's Temperance Association has 120,000 members and Scotland 70,000. Both societies are affiliated with the World's Woman's Christian Temperance Union. The white ribbon movement is growing rapidly stronger in Great Britain. Drinking is increasing amongst the women of England, and this is one of the most potent causes of degeneration which is leading men and women to be easy preys to drink and which wrecks character, home and national health. The greatest problem of a country is its home life. It is the keynote of all effort and is the heart of every social problem.

BOOK DEPARTMENT

NOTES

Alston, Leonard. *The White Man's Work in Asia and Africa.* Pp. ix, 136. Price, \$1.00. New York: Longmans, Green & Co., 1907.

This little volume of four chapters is one of the most important discussions of the relations existing between "higher" and "lower" races the reviewer has seen. Most of the author's life has been spent among other races, and he has evidently profited by his observations. He enjoins sympathetic study of the development of alien institutions and care in opposing them, whether from the standpoint of civil or missionary administration. Social change involves the possibility of great loss. To too large a degree the darker races have been looked upon as mere means to wealth production, the bulk of which the white man has sought as his share. Administrative problems are paralleled by ethico-religious problems. No one interested in civil administration of colonies, or in foreign mission work can afford to overlook this modest essay.

Alymer-Small, S. *Electrical Railroading.* Pp. 924. Price, \$3.50. Chicago: F. J. Drake & Co., 1908.

Reserved for later notice.

Anson, W. R. *The Law and Custom of the Constitution.* Vol. 2, part 1. Pp. xv, 283. Price, \$3.40. Oxford: Clarendon Press.

Reserved for later notice.

Arner, G. B. L. *Consanguineous Marriages in the American Population.* Pp. 99. Price 75 cents. New York: Longmans, Green & Co., 1908.

Under the above title, Dr. Arner has given us an interesting statistical study of the effects of inbreeding, and the author's conclusions are hardly in line with popular belief on the subject. They are as follows: That consanguinity in the parents "has no perceptible influence" upon the number of children or their sex ratio, and "little, if any, direct effect upon the physical or mental condition of the offspring." That "the most important physiological effect of consanguineous marriage is to intensify any or all inheritable family characteristics or peculiarities by double inheritance,"—wherefore, it is to the interest of society that the physically and mentally defective should not be allowed to marry and propagate their kind. But, on the other hand, the logical conclusion is reached that "in the absence of degenerative tendencies the higher qualities of mind and body are similarly intensified by marriage between highly endowed members of the same family."

An excellent bibliography at the close of the book will prove helpful to those who would pursue the subject further.

Australia, Official Year Book of, 1901-07 Pp. 931. Melbourne: McCarron, Bird & Co., 1908.

Baldwin, C. W. *Geography of the Hawaiian Islands.* Pp. 125. Price, 60 cents. New York: American Book Company, 1908.

Reserved for later notice.

Baldwin, W. A. *Industrial-Social Education.* Pp. 147. Price, \$1.50. Springfield, Mass.: Milton-Bradley Company.

Reserved for later notice.

Barker, J. E. *Modern Germany.* Pp. viii, 583. Price, \$3.00. New York: E. P. Dutton & Co., 1907.

The author of "Modern Germany," Mr. J. Ellis Barker, has more often written over the pseudonym O. Eltzbacher. The second edition "very greatly enlarged and completely revised and brought up-to-date" appeared in 1907. The volume is a comprehensive one dealing with the political and economic problems, the tariff and domestic policy, the ambitions, and causes of the success of the German people. It goes without saying that any one-volume account of the political and economic institutions and social life of Germany must be content with a general and more or less superficial treatment of the topics considered. Mr. Barker's style is that of the magazine writer rather than that of the book-maker; indeed, several parts of the book had already appeared in journals before they were published in book form. The book, however, is to be commended because it contains a large amount of information and gives what may, on the whole, be considered to be an impartial estimate of Germany.

Beers, C. W. *A Mind that Found Itself.* Pp. vii, 363. Price, \$1.50. New York: Longmans, Green & Co., 1908.

Reserved for later notice.

Blewett, G. J. *The Study of Nature and the Vision of God.* Pp. 358. Price, \$1.75. Toronto: William Briggs, 1907.

This valuable work is concerned with a two-fold opposition of fundamental philosophic tendencies: that between idealism and mysticism, and that between abstract and concrete idealism. The first two essays deal with the main antithesis itself; the one outlining the idealistic position which in its method of apprehending the true nature of reality is made to move from the world to God, without forgetting the world from which it started; the other tracing the development of mysticism, as interpreted by Spinoza, which in its method "leaves the world behind." The history of Christendom, is considered as representing the conflicts of these two tendencies.

The remaining essays are studies in the history of idealism, with reference to Plato, Erigena and St. Thomas. The philosophical and theological value of this work lies in its reconciliation of the world as it appears to the demand that it shall be seen as framed throughout for the realization of a supreme purpose. To Plato is given the credit for making the first systematic application of this principle, and the manner in which Kant revived

it and the more recent philosophers have applied it is logically, but rather verbosely, outlined.

Bloomfield, J. K. *The Oneidas*. Pp. 395. Price, \$2.00. New York: Alden Brothers, 1907.

The author gives a very sympathetic and appreciative account of the career of the Oneida tribe of Indians. His chief interest is in the religious work done among them. One learns very little of the social organization or daily life either under the older régime or to-day in Wisconsin. Much extraneous matter is introduced and there is little evidence of critical judgment in dealing with sources of evidence. There are some eighty illustrations

Blum, I., and Giese E. *Wierschliessen wir unsere Kolonien*. Pp. 136. Berlin: D. Reimer.

Bowle, A. J., Jr. *Practical Irrigation*. Pp. 232. New York: McGraw Publishing Company, 1908.

Reserved for later notice.

Brémond, V. C. *L'Irresponsabilité Parlementaire en France*. Pp. 124. Paris: University of Marseilles, 1908.

Brown, W. M. *The Crucial Race Question*. Pp. xxvi, 323. Price, \$1.15. Little Rock: The Arkansas Churchman's Publishing Co., 1907.

When the Bishop of the Episcopal Church in a great state discusses "where and how shall the color line be drawn?" one naturally expects a broad-minded argument. The reader is disheartened therefore to find an opening prayer on behalf of "this poor, helpless people," and the belief of the author that he has a solution for the race problem stated in the introduction. The author has come to the conclusion that the Episcopal Church should appoint colored bishops and create a separate church for the negroes. In this there is nothing new, for the Baptist and Methodist denominations long ago took similar action. This proposal may be wise—the Lambeth Conference this last summer, it is to be noted, opposed such separation—but that it therefore follows that in all activities there should be segregation of the races is absurd. Yet this is the position to which the bishop reverts at the end of the various chapters. The title of the book is, therefore, very misleading. The only topic really under discussion is the "Arkansas plan" providing for a separation in the church. In so far it is worthy of serious attention on the part of the members of the sect.

Cambridge Modern History. Vol. V. Pp. xxxi, 971. Price, \$4.00. New York: Macmillan Company, 1908.

Reserved for later notice.

Campbell, R. J. *Neutral Rights and Obligations in the Anglo-Boer War*. Pp. 149. Baltimore: Johns Hopkins Press, 1908.

Castelein, A. *The Congo State*. Pp. 273. London: David Nutt, 1908.

The author is a priest, who writes in defense of the Belgian government of the Congo. His book is written on the same lines as that of Prof. Starr

on "The Truth About the Congo," though it is a more *ex parte* argument. The critics of the Congo are held to be chiefly envious British imperialists. They criticise in the Congo what passes unnoticed in the British colonies. It is better for the blacks to work to aid in the development of the country than to engage in internecine wars. The author speaks of what he has seen, but is not unprejudiced in his interpretations.

Chaddock, R. E. *Ohio Before 1850*. Pp. 156. Price, \$1.50. New York: Columbia University Press, 1908.

Cleveland, F. A. *The Bank and the Treasury*. New edition. Pp. xl, 371. Price, \$2.00. New York: Longmans, Green & Co., 1908.

This is a new edition of the weighty treatise by Dr. Frederick A. Cleveland, professor of finance in the School of Commerce, Accounts and Finance, New York University. The volume is enlarged by a new introduction forty pages in length dealing with events since 1905, the date of the first edition.

Dr. Cleveland finds the principal cause of the panic of 1907 in the under-capitalization of the banks. In 1897 the proportion of capital, surplus, and undivided profits to individual deposit obligations was as 1 to 1.92; in 1906 this proportion reached 1 to 2.79. He writes: "The amount of capital needed by a bank is such amount as is necessary to provide it with its office equipment and with an adequate money-reserve. If the capital of a bank is not sufficient to do this with safety, then it is under-capitalized." The author estimates that it would require about \$1,000,000,000 additional capital to bring the banks of this country up to this standard. This diagnosis and remedy are rather novel. Most of the authorities have recommended other measures than the "capitalization of reserve" in order to make a stable basis for bank-credit. The guarantee of bank deposits to prevent sudden withdrawals of cash, the privilege of note-issue on easier terms to supply emergency needs for cash thus preventing drafts on cash reserves, and other measures have been advocated to accomplish the purpose. It is not likely that Dr. Cleveland's remedy will be accepted by many students of finance as an adequate measure. The author believes that the United States Treasury provides all the necessary facilities of a central bank.

Colson, C. *Cours D'Economie Politique*. Vol. VI, *Les Travaux Publics et les Transports*. Pp. 528. Price, 6 fr. Paris: Gauthier-Villars, 1907.

The sixth volume of *Cours D'Economie Politique* deals with public works and transportation; the other five volumes treat respectively of (I) the general theory of economic phenomena, (II) labor and labor questions, (III) capital, natural agents and immaterial goods, (IV) industry, commerce and distribution, and (V) public finance.

The sixth and concluding volume of the series discusses public works and transportation in eight chapters. The work starts out with the theory of transportation charges and tolls, followed by a description of the length and location of the principal waterways of France, Great Britain, Germany and the United States. The third chapter considers the traffic of inland

waterways and the costs of transportation upon them. Chapter four describes and passes judgment upon the various systems of transportation charges. There is a chapter upon competition and combination, upon the relation of the state to private industries, and upon the financial relations between the government and concessionaires. There is also a brief discussion of the distribution of water and gas and of measures to prevent the contamination of streams.

The author's treatment throughout is descriptive and analytical rather than critical. The book is conservative and reliable. It contains a large amount of information which will be appreciated both as a reference work and as a treatise to be given careful study.

Coolidge, A. C. *The United States as a World Power.* Pp. 385. New York: Macmillan Co., 1908.

This series of essays was first delivered at the Sorbonne, in Paris, as the Harvard lectures on the Hyde foundation. They bear at numerous points the evidence that they were prepared for a European rather than an American audience. The first hundred pages are given to presenting the national background from which our foreign affairs must be viewed, and would probably be omitted from an account of our foreign policy intended only for American readers. The later chapters depart from the usual arrangement followed—the discussion of the various events of our foreign policy since 1898—to give an estimate of our present relations with our various neighbors. To make clear our position the different historical events leading up to the present situations are reviewed in each case. The book is interesting in style and gives a more synthetic view of our present international relations than is generally received from volumes with similar titles. Occasionally deference is paid to the prejudices of the author's audience. In the chapter on our relations to France, our diplomatic disagreements, including the Maximilian episode, are pressed into a single paragraph. There are several thrusts in the chapter on Germany, also, which may have a similar explanation. The acute criticisms of American shortcomings are made in a way that can be heartily appreciated by Americans as well as Frenchmen. The book is not intended as a purely historical discussion but as an interpretation and appreciation of our present international position. It fulfils its object well.

Cresson, W. P. *Persia: The Awakening East.* Pp. 275. Price, \$3.50. Philadelphia: J. B. Lippincott Co., 1908.

Mr. Cresson, by the character of this book, successfully proves his contention that Lord Curzon's monumental work on Persia has not entirely pre-empted the field. This volume is a decidedly interesting portrayal of conditions in a country which has lately been prominent in the eyes of the world, but most readers will, nevertheless, probably finish the reading of the book with a feeling of disappointment.

The title apparently holds forth the promise of discussing the awakening of Persia, or at least the evidence of its being awakened by recent events. The general absence of such a discussion creates the sense of something lack-

ing. It is true enough that the personal description of Persian regions, life and so on, makes a highly entertaining volume—a volume well written and well illustrated, but Mr. Cresson does not live up to his avowed purpose as indicated by his title and his introductory statements.

Here and there casual references are made to modern progress in Persia, the most important being the discussion of the Bagdad railway and its possibilities. To have brought all these casual statements together in a single final chapter would have been vastly more satisfactory.

Cunningham, W. *Growth of English Industry and Commerce.* 2 vols., 4th edition. Pp. 1, 1039. Price, \$5.25. Cambridge: University Press. New York: Putnam's Sons.

Professor Cunningham brought out the fourth edition of Volume II of his authoritative work on the "Growth of English Industry and Commerce," in 1907. This volume, printed in two parts, covers the period since the beginning of the reign of Elizabeth. The fourth edition of volume I appeared in 1905. It is interesting to note that the first edition of Professor Cunningham's great work was published in 1882, twenty-five years before the appearance of the latest revision. In preparing the third edition for the press the author practically rewrote his volumes; but in this latest revision only minor changes were necessary. Only two of the sections, one dealing with "The Sinking of Capital in Land," and the other with "Importance of Tillage in the 17th Century," were rewritten. That only this small amount of revision was deemed necessary is evidence of the scholarly accuracy and true perspective that characterize the author's earlier work. As Professor Cunningham states, the subject of economic history has received much attention during the past six years and numerous valuable monographs on special topics have appeared in France, Germany, England and America. There have also been numerous valuable local studies made throwing sidelights upon general economic history. It must, accordingly, be with much satisfaction that the author is able to state that "the additional information which has come to hand serves on the whole to illustrate and amplify the views expressed in previous editions of this work."

Daggett, S. *Railroad Reorganisation.* Pp. x, 402. Price, \$2.00. Boston: Houghton, Mifflin & Co., 1908.
Reserved for later notice.

Davis, J. W., and S. C. *A Civics for Elementary Schools.* Rev. ed. Pp. xiv, 163. Price, 50 cents. Boston: Educational Publication Company.

Davis, W. T. (Editor). *Bradford's History of Plymouth Plantation, 1616-1646.* Pp. xv, 437. Price, \$3.00. New York: Charles Scribner's Sons. 1908.

A new series of original narratives of early American history, to be reproduced under the auspices of the American Historical Association, has been begun by the publication of Bradford's "History of Plymouth Plantation, 1606-1646." This volume was edited by William T. Davis, former president

of the Pilgrim Society. While the volume was in the press and before it had been completely printed, Mr. Davis died. The general editor of the series, Professor J. Franklin Jameson, completed the task of publishing the volume. Mr. Davis prepared an introduction of twenty pages containing a biographical sketch of Governor Bradford and an account of the voyage of the *Mayflower*. Bradford's history was begun in 1630 and completed in 1648. This edition comprises numerous foot-notes to make the author's meaning clearer. The volume contains an admirable index.

Dewey, Davis R. *National Problems*. Pp. xiv, 360. Price, \$2.00. New York: Harper & Brothers, 1907.

The twenty-fourth volume of the American Nation Series deals with "National Problems," and is written by Professor Davis R. Dewey, of the Massachusetts Institute of Technology. The editor of this series was wise in selecting for the author of this volume an economist of high standing who has a wide reputation both as a statistician and as a student of practical economic questions. Dr. Dewey's book covers the period from the beginning of 1885 to 1897. During eight of those twelve years President Cleveland was at the head of the National Government and his powerful personal influence had much to do with the attitude of the public towards national questions. The volume discusses, among other things, monetary problems, labor questions, the Isthmian Canal, regulation of railroads, the tariff, the trusts, and our relations with Hawaii and Venezuela. The book is accompanied by eight maps, one of which is a map, in colors, of the United States in 1890.

Dougherty, J. H. *The Electoral System of the United States*. Pp. 420. Price, \$1.50. New York: G. P. Putnam's Sons.

In the volume under review, the author soberly presents the perils that have attended the operation of the electoral system of our country and analyzes with a great deal of care the several efforts that have been made by the legislature to avert these perils. After a brief discussion of the present constitutional provisions, he traces the story of the electoral count from 1789 to the scenes in Congress in 1857, and the interpretations which have been given to the inscrutable words "the votes shall then be counted." The Federalist Bill of 1800, the germinal idea from which subsequent rules and enactments sprang, and the history of the Electoral Commission Law of 1877, and the proceedings before the electoral tribunal, are then discussed. He urges that "if the people can be taught the transcendently urgent importance of abolishing a system that was an exotic when it was first adopted, that has never performed its contemplated function, that has been criticised ever since its creation, has become useless, and, what is much worse, dangerous, their wisdom may be trusted to discover the remedy." The required improvement is two-fold: First, the abolition of the electoral office, and, secondly, the adoption of a system which reduces the ultimate count at the seat of government to a simple mathematical computation. Furthermore, all impediments placed between the voter and the result—whether an electoral college or an arbitrary division of the states tend to diminish the voting

power of the individual and prevent some parties from receiving their due share of presidential votes.

Draper, A. S. *Our Children, Our Schools and Our Industries.* Pp. 136.

Price, 50 cents. Syracuse: C. W. Bardeen, 1908.

The author of this address is the Commissioner of Education of the State of New York. It is a splendid appeal for a reconstruction of our public school system to meet the needs of the great army of boys and girls, who are to be the workers of the next generation. It is just the volume to put into the hands of those who in any way control school affairs. The author is constructive, not satisfied with pointing out evils of the present system, but everywhere suggesting changes which have somewhere been successfully tried.

Dubois, Constance G. *The Religion of the Luiseño Indians of Southern California.* Pp. 187. Price, \$1.25. Berkeley: University of California Press, 1908.

Earle, F. S. *Southern Agriculture.* Pp. 297. Price, \$1.25. New York: Macmillan Company, 1908.

Reserved for later notice.

Earp, E. L. *Social Aspects of Religious Institutions.* Pp. 152. Price, 75 cents. New York: Eaton & Mains, 1908.

Reserved for later notice.

Ellis, H. *The Soul of Spain.* Pp. viii, 420. Price, \$2.00. Boston: Houghton, Mifflin & Co., 1908.

Reserved for later notice.

Fairlie, J. A. *Local Government in Counties, Towns and Villages.* Pp. 374. Price, \$2.50. New York: The Century Company, 1908.

This volume is one of the most valuable in the American State Series. Much attention has been given in recent years to municipal government, but local rural government has received little or no attention. In this work Dr. Fairlie has made a careful study of the organization, functions, and accounting of the township. Probably the most valuable portion of the work is contained in Part 4, in which he studies the gradual development of central administrative control over the administration of county and township affairs. Every student of local government in the United States owes Dr. Fairlie a debt of gratitude, not only for his painstaking analysis of existing conditions but for the happy faculty of impressing upon the reader the general principles underlying the growth of local institutions in the United States.

Farman, E. E. *Egypt and Its Betrayal.* Pp. xx, 349. New York: Grafton Press, 1908.

The author having been consul general at Cairo, and later judge of the International Court of Appeals, at Alexandria, is able to write with much authority concerning Egyptian affairs. The account is confined essentially to

Egypt as it was under Hamad Pasha and Tewfik Pasha, the crucial period of its modern history, personal experiences of the author, and a discussion of the spoliation of Egypt by Europeans, mainly the English.

The principal theme of the volume, as indicated by its title, appears to be an arraignment of English activities. The ordinary reader will be somewhat perplexed by the disproportion of space accorded different topics. It is, for example, hard to see why nearly fifty pages should be devoted to a detailed chronicle of every move in the lengthy negotiations to secure an obelisk for New York City, unless it is with a view to insure the author his measure of credit for having assisted in the despoiling of Egyptian antiquities.

The picture drawn of the country's future is far from pleasing, and one which many will be inclined to regard it with skepticism. It is too generally believed that British influence has been beneficial to Egypt for Mr. Farman to carry his whole argument to the contrary. The book is decidedly well worth reading, especially for those already somewhat familiar with the subject, to hear "the other side," if for no other reason.

Franklin, F. *People and Problems.* Pp. 344. Price, \$1.50. New York: Henry Holt & Co., 1908.

In this little volume of addresses and editorials, Mr. Franklin has touched upon a variety of timely topics, which have occupied the public mind for the last thirteen years. As editor of the Baltimore "News" he has had ample opportunity to study the various phases of American life, and in these editorials, we find a distinctly refreshing viewpoint put forth by a thinker of more than usual sympathy and breadth. He rarely fails to hit the nail on the head, and his expositions of fallacies in thought and doctrine are clear and convincing. The dominant note of Mr. Franklin's personality is brought out clearly in his discussion on exact thinking and defects of public discussion in America. He shows how vacuous and unconvincing are all argument and thinking which assume prejudice or inexact statement of fact. Above all, his viewpoint can be readily seen, that of the cool trained observer of passing events, seeing defects in the public thought and public action, and striving to remedy these defects by calm, dispassionate exposition of the various topics of interest at the time.

Gregory, C. N. *Samuel Freeman Miller.* Pp. xii, 217. Iowa City: State Historical Society.

Haines, H. S. *Railway Corporations as Public Servants.* Pp. 233. Price, \$1.50. New York: Macmillan Co., 1907.

Mr. Haines has put into book form the lectures delivered by him at the Boston University School of Law, 1907. His lectures at the same institution two years before were incorporated in the volume entitled "Restrictive Railway Legislation." Accordingly the present book extends, and to a certain extent supplements, the work previously published. The subjects treated in this present volume include the nature of a public service, the public benefit conferred by railways, federal legislation, results of governmental regulation,

the reasonableness of railway rates, and allied subjects. In this, as in his previous work, Mr. Haines, although writing from the point of view of a man who has spent his life in the railway service, deals with the relations of the railways to the public with most commendable impartiality. The author is notably open-minded and fair.

Hankins, F. H. *Adolphe Quetelet as Statistician.* Pp. 134. Price, \$1.25. New York: Columbia University Press, 1908.

Hill, F. F. *Decisive Battles of the Law.* Pp. viii, 268. Price, \$2.25. New York: Harper & Brothers, 1907.

This is an interesting book which does not justify its title. The cases, though full of color, and in some instances theatrical, are historic rather than decisive. Some are state cases, only two or three are decisions involving great constitutional principles.

Hunt, G. (Editor). *The Journal of the Constitutional Convention of 1787, by James Madison.* 2 Vols. Pp. xvii, 853. Price, \$6.00. New York: G. P. Putnam's Sons, 1908.

Madison's Journal of the Constitutional Convention of 1787, has been carefully re-edited by Mr. G. Hunt, and republished in two volumes of convenient size. In the introduction to volume one the editor gives the history of the original document prepared by Madison and an account of the various editions of the journal that have been published. Mr. Hunt brings out the fact that the Pinckney plan of the constitution, as published in the John Quincy Adams edition of 1819, was prepared by Pinckney thirty years after the convention, and was a more complete scheme than Pinckney actually submitted to the convention in 1787. Mr. Hunt's edition shows accurately how much Madison, Hamilton, Pinckney and others really contributed to the framing of the constitution as it was finally adopted.

Industries du Caoutchouc et de L'Amiante. Pp. 232. Brussels: J. Lebégue et Cie., 1907.

This official document, by a nameless author, issued by the Belgian Department of Industry and Labor, recognizing the great increase in the use of rubber, its irreplaceable service in existing society and its infinitude of uses, aims to give a comprehensive account of the industry. A comparatively small proportion of the book is given up to the production of the raw material, the greatest attention being given to the qualities of the various kinds and to the technique of manufacture, with a number of excellent illustrations. There is a valuable world map showing the regions where rubber is indigenous.

Ireland, A. *The Province of Burma.* 2 vols. Pp. xxxvii, 1023. Price, \$25.00. Boston: Houghton, Mifflin & Co.

Reserved for later notice.

James, G. W. *What the White Race May Learn from the Indian.* Pp. 269. Price, \$1.50. Chicago: Forbes & Co., 1908.

The author has had an extensive acquaintance with the Indians of the southwest. In other books he has shown literary ability of no low order.

The present volume contains much that is very good, but there is a very large amount of preaching, which at times is almost ranting, relative to the folly of the white man's customs. The author had an exceptional chance—he has only partly taken advantage of it. His evaluation of many of the habits and customs of the Indians deserves notice. It is a pleasure to note that he knows the Indians so well that he can appreciate customs and virtues different from our own. His account of the life, labor, customs and mental attributes is excellent. The book is valuable and could be read to advantage by all whites. There are many good illustrations.

Kaufmann, E. *Auswärtige Gewalt und Kolonialgewaltung in den Vereinigten Staaten von Amerika.* Pp. 243. Price, 5.60 m. Leipzig: Duncker & Humblot, 1908.

Koebel, W. H. *Modern Argentina.* Pp. xv, 380. London: Francis Griffiths, 1907.

In this work the author attempts a popular description of political, social and commercial conditions existing in the Argentine Republic. He has succeeded in writing a popular guide-book, which will be exceedingly useful to those who are contemplating a first trip to South America. The work is an indication of excellent powers of observation and is written in a pleasant conversational style. Throughout the author shows a keen sense of the picturesque, which adds greatly to the interest of the volume. The illustrations are numerous and for the most part, well-chosen. The best chapters of the book are those dealing with the great stock-farms. The author knows these thoroughly and has given a very vivid picture of their peculiar, and in many respects extraordinary, life.

Labor, 24th Annual Report of Bureau of, 1906. Parts 2 and 4. Pp. 1381. Albany: State Department of Labor.

Lavisse, E. *Histoire de France.* Vol. vii, Part II. Pp. 415. Paris: Hachette et Cie.

Reserved for later notice.

Magoffin, R. van D. *A Study of the Topography and Municipal History of Pracueste.* Pp. 101. Baltimore: Johns Hopkins University Press, 1908.

McBeth, Kate C. *The Nez Perces Indians, Since Lewis and Clarke.* Pp. 272. Price, \$1.50. New York: F. H. Revell Co., 1908.

Barring some historical matter, this is a sketch of the life and work of the author and her sister among these Indians for a period of a quarter of a century, and a general account of missionary activities. It contains practically nothing relative to the life of the Indians, but really tells what the white man has done for them, particularly in matters religious, and portrays the development of churches. While the scope of the book is not wide, the history is worth preservation.

McCarthy, J. *A Short History of our Own Times.* Pp. 573. Price, \$1.50. New York: Harper & Brothers, 1908.

Reserved for later notice.

McGuire, H., and Christian G. L. *The Confederate Cause and Conduct in the War Between the States.* Pp. 229. Richmond: L. H. Jenkins, 1908. A series of reports given before the Grand Camp of Confederate Veterans of Virginia, an address on Stonewall Jackson, and a paper on the wounding and death of Stonewall Jackson, make up the Confederate cause and conduct in the war between the states. The volume is an attempt to present in three reports, speeches, newspaper clippings and letters, the attitude taken by the South throughout the War of the Rebellion. The writers deal with their subject from a Southern standpoint in showing that the cause of the war rested on the North and that the policy followed by Northern leaders and generals in their campaigns was wholly indefensible.

The work of Northern historians in treating the Civil War, these writers seek to show, has been done from a biased standpoint, and their endeavor is that truthful history shall be placed in Southern schools and colleges.

Moore, F. *The Passing of Morocco.* Pp. 189. Price, \$1.50. Boston: Houghton, Mifflin & Co., 1908.
Reserved for later notice.

Moore, J. H. *With Speaker Cannon through the Tropics.* Pp. xi, 410. Price, \$2.00. Philadelphia: The Book Print, 1907.

Munsterberg, Hugo. *On The Witness Stand.* Pp. 269. Price, \$1.50. New York: McClure Company, 1908.

An extremely important little volume, which should be read by everyone who has to do with criminal courts or who is interested in problems of crime. It amply proves, if this be necessary, that psychology is to be one of the important social sciences of the future. The chapters on Illusions; The Memory of the Witness; The Detection of Crime; The Traces of Emotions; Untrue Confessions; Suggestions in Court; Hypnotism and Crime; The Prevention of Crime; are valuable contributions. In the light of the evidence presented it is hard to realize that our courts have taken so little cognizance of the possibilities offered by applied psychology. It would be a pleasant task to make an abstract of this book—but it is not long nor difficult of access. Get it and read it.

Niel, C. *Conditions des Asiatiques, Sujets et Protégés Français au Siam.* Pp. 233. Paris: L. Larose et L. Tenin.

Page, T. N. *The Old Dominion: Her Making and Her Manners.* Pp. 394. Price, \$1.50. New York: Charles Scribner's Sons, 1908.

Mr. Thomas Nelson Page has brought within the covers of a book nine essays dealing with "making and the manners of the Old Dominion." The first of the papers tells the story of exploration, the second describes life in Jamestown, the third essay portrays life in colonial Virginia. Then follow papers on the Revolution, on Jefferson, and the Reconstruction Period. Other papers have to do with social conditions and domestic life of present-day Virginia. The last essay gives a fascinating picture of an old

Virginia Sunday. This volume has the usual literary charm of Mr. Page's writings.

Player, P. *Notes on Hydro-Electric Developments.* Pp. 68. New York: McGraw Publishing Company, 1908.

Rastall, B. M. *The Labor History of the Cripple Creek District.* Pp. 166.

Price, 50 cents. Madison: University of Wisconsin Bulletin, 1908.

The author has traced, but at times with too great attention to details, the history of the strikes in the Cripple Creek (Col.) District, during the years of 1894 and 1903-4. A careful effort has been made to obtain the facts relative to these memorable and lawless struggles between the miners and their employers, and the author is to be complimented upon the fair-minded manner in which he has presented them. The volume, however, lacks scholarly finish and smacks too greatly of the easy flowing, and at times careless, newspaper style of composition so frequently found in popular accounts of such matters.

Raymond, W. G. *Elements of Railroad Engineering.* Pp. xvi, 405. Price, \$3.50. New York: John Wiley & Sons, 1908.

Although economists and the lay public generally will find Professor Raymond's book on the "Elements of Railroad Engineering" too technical to be intelligible, they will none the less find it profitable to give his brief introduction a careful study. In this introduction the author describes the formation of a company, defines securities, and considers briefly the questions of construction, operation, capitalization and relations to the public. The main body of the work is divided into three parts dealing respectively with permanent way, the locomotive and its work, railroad location, construction, and betterment. The author is Professor of Civil Engineering and Dean of the College of Applied Science at the State University of Iowa.

Roeder, A. *Practical Citizenship.* Pp. 215. Price, \$1.50. New York: Isaac H. Blanchard Co., 1908.

A series of popular articles, published in the Newark "Evening News," on the nature of the body politic as an organism, the forces that give it life, and the attainment of practical citizenship, is here presented in book form. The scientific shortcomings of the first two divisions may be overlooked. The third is better. The series as a whole is inspiring in the cause of a larger manhood and may be read with profit.

Schaffner, Margaret A. *The Labor Contract from Individual to Collective Bargaining.* Pp. 182. Price, 50 cents. Madison: University of Wisconsin Bulletin, 1907.

This thesis, although but a tentative study of the evolution of the labor contract in the United States, is nevertheless, a very creditable piece of research. Chapter I dealing with the legal aspects of the question is inexcusably weak, when one considers the work already done by others in the field of labor law. The second part of Chapter III, "Stages of Collective Action in Separate Industries," is especially good and in itself justifies the

appearance of this volume. An appendix is added containing a number of representative working rules and trade agreements.

Schmoller, G. *Jahrbuch für Gesetzgebung, Verwaltung und Volkswirtschaft.* Pp. 366. Price, 8.20 m. Leipsic: Duncker & Humblot, 1908.

Seguin, E. *Idiocy and Its Treatment.* Pp. 202. Price, \$2.00. New York: Teachers' College, Columbia University, 1907.

It was a happy thought that led to the reprinting of this valuable thesis for many years out of print. The newer development in child psychology; in the teaching of backward children in public schools; in the reaction of the results of the training of the feeble-minded upon the policies of regular schools, lends added value to the work of Seguin. The original text is reproduced unchanged save for the correction of typographical errors. All teachers of backward children should take advantage of this opportunity to secure the book.

Spargo, J. *The Common Sense of Socialism.* Pp. 184. Chicago: Chas. Kerr & Co., 1908.

Starr, F. *In Indian Mexico.* Pp. x, 424. Price, \$5.00. Chicago: Forbes & Co., 1908.

This large volume, illustrated by 160 excellent half-tones, is the journal of the author covering several trips into the little-known regions of southern Mexico. Much geographical knowledge is presupposed, for there is no map, and the names of towns, etc., are likely to have little meaning to the general reader. The account is very readable though at times too detailed. The field has been little worked so the book puts in convenient form much information about the land and the people otherwise inaccessible.

Thompson, J. A. *Heredity.* Pp. xvi, 604. Price, \$3.50. New York: G. P. Putnam's Sons, 1908.

Reserved for later notice.

Train, A. *True Stories of Crime.* Pp. viii, 406. New York: Charles Scribner's Sons, 1908.

The author is a good story-teller. As assistant to Mr. Jerome he has had great opportunity to meet interesting criminals and know their careers. The stories are guaranteed true to the facts. They are very interesting and valuable.

Travis, T. *The Young Malefactor.* Pp. xxviii, 243. Price, \$1.50. New York: Thos. Y. Crowell & Co., 1908.

Few subjects are arousing greater interest among those dealing with educational and social problems than that of juvenile delinquency. The author has had considerable experience and is greatly interested in the subject. The reviewer finds himself obliged, however, to dissent from Judge B. B. Lindsey's verdict expressed in the introduction written by him that "Dr. Travis has covered this field in an admirable manner." The style is very diffuse, there is a decided lack of logical order, and repetitions are numerous. The state-

ments of institutions as to numbers reformed are quoted practically without comment as if they were really accurate and valuable. The bibliography is very incomplete, no mention being made for instance, either to Boies: Principles of Penology, or Wines: Punishment and Reformation. No new conclusions are reached and no new evidence given, save some reference to studies of the author in which he found the same physical defects among the insane noted by the Italians as stigmata of criminals. The advanced student of criminology will hardly find the book of service. The general reader, who knows little of the subject, but who is interested, may read it with profit. The author's attitude is good and his conclusions usually sound. The chief causes of juvenile crime lie, he holds, in neglected and miseducated childhood.

Tuberculosis, National Association for the Study and Prevention of. Transactions of the Third Annual Meeting. Pp. 370. Price, \$2.00. Philadelphia: W. F. Fell Company.

Viator, Scotus. *The Future of Austria-Hungary.* Pp. 70. Price, 2 s. London: Constable & Co., 1907.

In this book are reviewed all the possible combinations against Austria-Hungary, and the author concludes that the dual kingdom will not fall to pieces at the death of the present reigning sovereign. Any aggressor would be met by a powerful combination opposing his claims. England and France especially, must maintain Austria-Hungary as a powerful political unit in Europe. In spite of its internal weakness, Austria-Hungary must be maintained to preserve the European balance of power.

Ward, R. De C. *Climate—Considered Especially in Relation to Man.* Pp. vii, 372. Price, \$2.00. New York: G. P. Putnam's Sons, 1908.
Reserved for later notice.

Ware, S. L. *The Elizabethan Parish in Its Ecclesiastical and Financial Aspects.* Pp. 93. Baltimore: Johns Hopkins University Press, 1908.

Weld, L. D. H. *Private Freight Cars and American Railways.* Pp. 185. Price, \$1.50. New York: Columbia University Press, 1908.

The monograph by Dr. Weld on private freight cars deals comprehensively with a transportation subject of great importance concerning which there was comparatively little printed information. It is to be hoped that other traffic and operating questions will be made the subject of similar monographs by Dr. Weld and others who have had university training. The monograph gives a history of special equipment cars, shows what part those cars have played in the development of the country, discusses the financial relations of private car lines and the railroads, also the contracts between the private car companies and the rail lines, considers the question of refrigeration charges, analyzes the earnings of private cars, describes the different forms of discriminations and rebates, and closes with an outline of proposed remedies. The author is to be congratulated upon having produced a valuable monograph dealing with a subject both technical and economic in character.

Wendell, B. *The France of To-day.* Pp. 379. Price, \$1.50. New York: Charles Scribner's Sons, 1907.

It is some time since as charming a book has appeared as is Professor Wendell's "France of To-day." The author is professor in English at Harvard College and commands a charming style of writing and unusual powers of perception and analysis. The book is the outgrowth of lectures delivered at the Lowell Institute, Boston, in November and December, 1906. The chapters set forth the impressions which France made upon Professor Wendell during the year that he held the James Hazen Hyde lectureship at French universities. The eight chapters of the volume are devoted to the universities, the structure of society, the family, the French temperament, the relation of literature to life, the question of religion, the revolution and its effects, and the republic and democracy. Professor Wendell's contact was mainly with the literary and official classes of France. He saw very little of the masses. The author's impressions of France and the French were extremely favorable. Indeed, it is probable that the French have not had a more appreciative foreign critic. Everyone who has spent any length of time in France knows how very difficult it is to understand the people and institutions of that country. Persons who have been in France or propose to go there will want to read this volume.

Whitn, E. Stagg. *Factory Legislation in Maine.* Pp. 145. New York: Longmans, Green & Co., 1908.

The publication of this excellent monograph, following those on New York, Pennsylvania and Connecticut by different authors, brings us one step nearer the writing of a comprehensive treatise on Factory Legislation in the United States. The work falls into the natural two-fold division of historical and administrative, and is extended to touch upon some topics of collateral interest, such as union label regulation, employers' liability, conciliation, arbitration, etc. The vital connection between child labor and compulsory education laws, and the need for harmony in their enforcement, is clearly brought out. And the writer records the fact that the legislature has recognized by statute the importance of corroborative evidence of age.

The optional initiative and referendum—in process of adoption through constitutional amendment—are regarded by the author as marking a new era in factory legislation, which hereafter "must have the sanction of a majority of the people in the state."

Wolf, J. *Nationalökonomie als exakte Wissenschaft.* Pp. 203. Price 4 m. Leipzig: A. Deichert, 1908.

REVIEWS.

Davenport, H. J. *Value and Distribution.* Pp. 582. Price, \$3.50. Chicago: University of Chicago Press, 1908.

A lengthy and ponderous volume leading to no practical conclusions. The author begins by outlining at great and unnecessary length the economic

views of Adam Smith, Ricardo, James Mill, McCullough, Senior, John Stuart Mill and Cairnes. He also takes up briefly the work of Hadley, Walker, Fetter, Carver, Seager, Seligman and Boehm-Bawerk.

The author has for his object the emphasis of "entrepreneur cost" and to arrive at this emphasis he indulges in the use of a large number of terms such as "capital-use cost," "loan-interest-displacement or investment-opportunity cost," "capital-product-opportunity cost," "standard-of-living-wage cost" and "minimum-of-existence-wage cost." With such, and a great number of other equally involved word relations, the author unnecessarily confuses the reader and at the end of a long, laborious series of wadings through mazes of words and sentences leads him to no satisfying conclusions.

It is doubtful whether the author has made any contribution to the science of economics. The field which he has attempted to cover is a broad one, and the subject of unquestionable importance. It is certain, however, that he has placed before the economic world a book which will be read only by the few because of its difficult phraseology, unnecessary indulgence in detail quotations and involved investigations into the questions which do not concern even the average economist.

SCOTT NEARING.

University of Pennsylvania.

Hendrick, F. *The Power to Regulate Corporations and Commerce*. Pp. lxxii, 516. Price, \$4.00. New York: G. P. Putnam's Sons.

Some years ago, Mr. Frank Hendrick published a small but excellent volume on "Railroad Control by Commissions," in which the laws of the leading American states and the practices of certain foreign countries were set forth and discussed. The last book by Mr. Hendrick is a much larger and more profound treatise. Although the general title of the book is "The Power to Regulate Corporations and Commerce," it is in effect, as its subtitle indicates, "a discussion of the existence, basis, nature, and scope of the common law of the United States."

The general thought of the book is summarized as follows in the first paragraph of the preface:

"This book is an attempt to define the limits within which the governments of the several states and of the United States may secure freedom of trade by control of the persons and things engaged therein, and to indicate the respective powers of the three departments of government in the exercise of such control. The relation of the three departments of the government of the United States to one another, and to those of the State governments in the control of interstate commerce and of corporations, is set forth with reference to over two thousand cases involving questions of constitutional law."

The emphasis of the author throughout the book is laid upon the thought that there exists in the United States a "body of constitutional principles of such comprehensiveness as to be called the 'common law of the United States.'" It is the belief of the author that "in a free country the existence

of a remedy for every wrong does not depend so much upon statutory expression as upon the use by judges of their full power to do justice under broad and universally admitted principles of right and wrong." This thesis gives Mr. Hendrick's book a somewhat unique character and makes the treatise an important one not only to students of common law, but also to those who are particularly interested in the question of the relation of the nation and state—a question that has become much more prominent since Mr. Hendrick's book appeared two years ago than it was at the time the volume was being written.

Many of the author's statements would seem to indicate that he was really debating the question of the paramountcy of the nation as contrasted with the state, although that specific question was doubtless not in the author's mind. For instance, in speaking of the question of monopoly and corporate control, he says: "To these evils attention must be directed with a national view. As to commerce the nation is one. And commerce is non-political." He also states the following in the closing paragraph of his volume:

"Not only as to disputes arising in the broad domain of interstate commerce, but as to those arising under the conditions created by the growth of combinations, corporations, monopolies, the expansion of domestic trade, and the extension of the scope and use of public callings, the nation is and should be really one in the treatment of a question which was not only, in its original form, itself the cause and the occasion of the existence of the United States of America, but has given in its not altogether regrettable development, a new and broader meaning to the common law, as the common law of the United States."

These brief quotations from the thorough treatise by Mr. Hendrick will indicate both the character and the scope of the work and the scholarly treatment the author has given the subject under discussion.

EMORY R. JOHNSON.

University of Pennsylvania.

Holmes, T. R. *Ancient Britain and the Invasions of Julius Caesar*. Pp. xvi, 764. Oxford: The Clarendon Press, 1907.

Very interesting is the attempt to reconstruct the early years of a great nation, particularly when done in an attractive literary style. The author devotes the first 373 pages to telling what is known of the people of the stone, bronze and iron ages, together with a good description of Caesar's invasions and their results. The text is supplemented by many illustrations. In the latter part of the volume many mooted questions of place, chronology, races and persons are taken up and the evidence carefully reviewed. The volume is very readable, yet done in a scholarly fashion and is to be commended to all who wish to know what it is now possible to know of what may almost be called pre-historic Britain.

CARL KELSEY.

University of Pennsylvania.

Hunter, R. *Socialists at Work*. Pp. 374. Price, \$1.50. New York: Macmillan Company, 1908.

This is a chronicle of some interesting facts concerning the Socialist movement, but of so incomplete a character as hardly to justify publication in book form. The material would serve well for a series of popular magazine articles entitled, "Notes on Socialism Abroad and at Home," but as a book it is hardly worthy of the perusal of a student.

The book is devoted in the main to the Socialist movement in Europe and details visits to the various Socialist conventions. Most attention is devoted to the Socialist party in Germany, which is held up as the most strongly and best organized of any of the political parties and therefore the most worthy of emulation by other Socialists. In analyzing the growth of the movement abroad, the author takes pains to show wherein the foreign conditions differ essentially from the American and to point out the fact that no conclusions for America can be based on European premises.

From this general criticism of the book, the only chapter which can be excepted is the one entitled "Socialism in Art and Literature." In this chapter the author presents in a new and interesting way a survey of the accomplishment of Socialists in these two fields. Altogether the material is quite noteworthy and well arranged.

The style of the book is interesting but by no means scholarly. The author has attempted to state the problem in a popularized way such as that employed by Mr. Wells in his "New Worlds for Old," but Mr. Hunter's book shows much less thought and mature judgment than that of Mr. Wells. On the whole, it would seem that one chapter of moment scarcely justifies the publication of a three-hundred page book.

SCOTT NEARING.

University of Pennsylvania.

Lewis, G. R. *The Stannaries: A Study of the English Tin Miner*. Pp. 278. Price, \$1.50 net. Boston: Houghton, Mifflin & Co., 1908.

This very scholarly study, awarded the David A. Wells prize for 1906-07, is the outcome of an undergraduate thesis begun by Dr. Lewis at Harvard University, and represents three years of investigation—one in America and two in England. The book affords ample evidence of painstaking, intelligent work.

In his opening chapter the author treats of technical conditions in the English tin industry, which dates back at least to the bronze age. The early English kings were impressed with the superior skill of the Germans in mining and metallurgy, although Dr. Lewis points out that for centuries the English pewterer excelled his continental brother. It is the author's opinion that Kemble's declaration that mines formed part of the regalian rights of the Anglo-Saxon kings is based on charters that are inconclusive. In view of our present agitation for the preservation of natural resources, the following principles among others set forth by Emperor Frederick I,

are of special interest: first, mineral rights are essentially disconnected from tenure of the surface; second, the sovereign is the sole proprietor of mines and alone may grant individuals power to work them. The author has found his material inadequate to answer the question whether English mining laws represent a seizure of private property under asserted regalian rights, or are fragments of a customary law antedating private property in land, or whether the mines were worked from the first under customs demanded by the peculiarities of the mining industry.

In the chapter on privileges and trade rules, there is a discussion of the right to dig tin wherever found and the limitations on that right. The author's treatment of industrial organization includes a brief sketch of the progress of mining organization in Germany, and in his last chapter he observes that early mining law was free from anything approaching the restraints of the guild system. Mining was characterized also by the earlier introduction of capitalistic forms of enterprise and further by an earlier introduction of the middleman than in other industries.

The eight chapters include the following: technical conditions; external history of the stannaries and the tin trade, early mining law, administration and justice, taxation and revenue, privileges and trade rules, industrial organization, labor and capital.

RAYMOND V. PHELAN.

University of Minnesota.

McCormick, F. *The Tragedy of Russia in Pacific Asia.* 2 Vols. Pp. xxx, 913. Price, \$3.00 each. New York: Outing Publishing Company, 1907.

COTES, E. *Signs and Portents in the Far East.* Pp. 308. Price, \$2.50. New York: Putnam's Sons, 1907.

Among the rich literature that has grown out of the experiences of the Russo-Japanese War, the book of Mr. McCormick occupies a pre-eminence which it shares with very few others. Indeed there is no other book on the war which combines so many elements of excellence. Not only is it an intensely fascinating account of the great campaigns seen from the Russian ranks, but it is a deep study of the psychology of war, of military organization, strategy, and the great variety of human elements that went into the making of this vast drama. Mr. McCormick has indeed been rewarded for his courage and persistency, in braving the dangers of associating himself with the Russian troops in days when the Americans were intensely hated by them and in defying all the hardships of war; because this has enabled him to give an account of entirely unique value. While the human interest predominates in this work and imparts to it a great fascination, the author's studies of affairs and his insight into human nature have enabled him to make many valuable observations upon policies and political characteristics. He draws a vivid picture of the lack of intelligence and the demoralization on the Russian side. "The talents and energy spent in dissipation and graft were enough to have won the war twice over,"—that is his deliberate judgment. The Russian troops, while individually brave, were still largely in the

"javelin age" and not able to fulfill the demands of modern military organization. Their initial overconfidence, nursed by false intelligence kept alive by the government, gradually gave way to the conviction that the war was a national crime and that the Russian organization was utterly evil. Towards the end of the war, the author found among the Russians only one man who expressed contempt for the Japanese and his views were so unwelcome to his hearers that it was a dangerous matter to express them. In these days when so many persons have suddenly veered in their judgment and turned utterly against Japan, denying her every vestige of civilization, the testimony of such a witness as the author, who saw the action of the Japanese troops from the enemy's side, ought to be listened to and weighed by thinking men. In the judgment of the Russian army the Japanese had kept up the highest standards of civilized nations in their behavior before and during battles and in the considerateness with which they treated their conquered enemies thereafter. Their spontaneous loyalty, their self-reliance, and ready self-sacrifice, contrasted strangely with the apathy and discouragement of the Russian troops. The author counsels America against harboring her prejudices and fomenting her grievances, offering the Oriental peoples a mere political good will which costs nothing, instead of a thorough sympathy and understanding which might help in solving the difficulties of the world. The work of Mr. McCormick is a commentary on the values of civilization as they revealed themselves in a great struggle.

The book of Mr. Cotes, notwithstanding its portentous title, is merely a well written and interesting account of the trip of an intelligent journalist along the main highway through China and Korea to Japan. We do not encounter any new interpretation of the present Oriental situation, nor are there revealed any new facts which would materially influence our judgment. But upon the various movements which are going on in China at the present time the author gives interesting and valuable testimony. His account of the manner in which governmental power in China is circumscribed by the custom of popular resistance, and his description of educational and industrial advance in Chinese cities, are very informing. When, however, he sees no hope for China except through the establishment of a virtual European protectorate, it is plain that his Anglo-Indian prejudices determine his judgment.

PAUL S. REINSCH.

University of Wisconsin.

Shambaugh, Bertha M. H. *Amana, The Community of True Inspiration.*

Pp. 414. Iowa City: The State Historical Society of Iowa, 1908.

For many years the community of Amana has been widely known as one of the most successful, both in its finances and its long life, of the German communistic settlements in America. By long years of residence near the community and frequent visits, Mrs. Shambaugh is well qualified to tell its story and interpret its life. The general history has been told many times. No one to my knowledge has quite told of its inner life and spirit as has the

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author of this attractive volume. Indeed her very sympathy leads her to minimize criticism and the reader is left in some doubt as to the extent to which the influence of the outside world, or its attractions for the younger generation, are affecting or will affect its future, though new customs are evidently creeping in. Ninety pages are devoted to a brief history of the movement. One hundred and twenty-eight pages are filled with the account of the life and customs of the community; while some one hundred and fifty pages are taken to tell of the religion. The constitution and by-laws are appended.

The author's style is good; her account readable. The volume will be welcomed by all who are interested in social experiments, whether truly democratic or not—for be it not forgotten that Amana is ruled and ruled strictly too by the elders.

CARL KELSEY.

University of Pennsylvania.

Smith, J. H. *Our Struggle for the Fourteenth Colony.* 2 Vols., Pp. xxx, 1271. New York: G. P. Putnam's Sons, 1907.

The volumes tell with minute detail the story of the attempts by Americans to secure Canada. The preliminary chapters give the analyses of the conditions in the United Colonies and Canada previous to the outbreak of the war, and then follows the history of the taking of Ticonderoga and Crown Point. The following chapters on the results of the proclamation of the Quebec Act in Canada, and the reasons that decided Congress to invade the northern country are interesting, and the invasion is told with a minuter detail than ever before, making up the bulk of narrative. (Vol. I, pp. 224-606, vol. II, pp. 1-458.) The account of the relations of Canada and the Americans for the remaining years of the war is compressed into 114 pages.

One is impressed with the industry of Professor Smith in searching out the material in printed volumes and in the archives of Europe and America. Never before has the importance of the early invasion of Canada, or the influence it had on contemporary events in other parts of America been so clearly shown.

The author has avowed his purpose to make the books interesting, and it must be confessed that he has succeeded, but this is due to the completeness of his knowledge of details rather than to his literary style, which is flamboyant, to put it moderately. This criticism of Professor Smith's work has been made so often that it is not necessary to give examples of his literary taste. Such sins in the use of language might be forgiven in a book of careful research, but when Professor Smith draws on his imagination for the narration of facts, the sin is no longer venial. In the very first pages he undertakes to describe most vividly, by picturing the persons present and by summarizing their speeches, an historic meeting in Faneuil Hall, in February, 1775, although he acknowledges that, "if any records of the session were kept, they have disappeared."

The whole point of view of the author is provincial. All acts of Great

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Britain are directed with hostile intent against the colonies and to prove his thesis he has drawn too frequently on the testimony of the enemies of the British ministry both in America and England. Never does it occur to the author to investigate the causes, to find the fundamental motives of ministerial action. In fact, in one instance he obscures the issue. In treating of the passage of the Quebec Act he quotes Governor Haldimand's estimate of the English-speaking population in Canada, as being 2,000 in 1780, as if such was the case in 1774. (I, p. 48.) As a matter of fact they did not number much over 300, and the ministry can scarcely be accused if it chose to treat this handful of Englishmen as a negligible quantity. Yet it is to the testimony of these 300 that Professor Smith turns most frequently for his interpretation of events in Canada, and of the attitude of the Canadians to the British government and the Revolution, so that this initial error is not unimportant. The author's lack of critical acumen may be best displayed in his treatment of the history of the Quebec Act. He attempts to prove that the measure was directed against the Americans by quoting from the enemies of the ministry and without giving due emphasis to the wrongs the French of Canada and the West had suffered during previous years,—which wrongs were the direct cause for passing the Quebec Act; nor, does he perceive the force of the fact that the Act was fathered by Lord Dartmouth, a man of conciliatory attitude, and that some important provisions of it, such as the incorporation of the West in the Province of Quebec, were opposed by Lord Hillsborough, the public man who was most hostile to the Americans at the time.

On account of such errors in critical analysis and in point of view, and in spite of the industry displayed by Professor Smith, the decision must be that the volumes cannot be regarded as a definitive narration of the relations between the Canadians and Americans during the Revolutionary War.

CLARENCE WALWORTH ALFORD.

University of Illinois.

Snedden, D. S., and Allen, W. H. *School Reports and School Efficiency.*
Pp. xi, 183. Price, \$1.50. New York: The Macmillan Company, 1908.

For a considerable time a desire has been variously expressed for more rational and uniform methods of presenting educational statistics. The need is obvious to one who gives even a cursory examination to city and state school reports. The latest and so far the most satisfactory attempt to bring educational statistics more into uniformity and put them on a basis which will enable them better to serve the ends for which they are used is the book by Professor Snedden of Teachers' College and Dr. Allen of the New York Bureau of Municipal Research.

The book consists of seven chapters, four written by Professor Snedden, two by Dr. Allen and one in collaboration. The earlier chapters present a brief account of the purposes and beginnings of school reports and review various attempts of the National Educational Association to establish greater uniformity in these reports. The most useful chapter in the book is 'that

furnishing tables and other forms of presenting school facts as used in typical reports. These tables are well selected from a goodly number of cities and cover a wide range of data. Closely related to the preceding and also of much interest is a chapter on "Suggested Economics and Improvements for School Reports."

Professor Snedden and Dr. Allen have done well in showing deficiencies in school reports and ways for their improvement. The New York committee on the physical welfare of school children under whose auspices the volume was prepared is to be commended. It is to be hoped that at an early date the United States Commissioner of Education, who is quoted as favoring a general conference of educational authorities on improvements in statistical method, will take the initiative to accomplish further the ends which this book seeks to serve.

CHEESMAN A. HERRICK.

Central High School, Philadelphia.

Socialism, The Case Against. Pp. 537. Price, \$1.50. New York: Macmillan Co., 1908.

In "The Case Against Socialism," we have an interesting collection of mis-statements, mangled quotations and detailed arguments, published for the purpose of being used as "a handbook for speakers and candidates." The author by the seriousness of his tone as well as by his frantic efforts at meeting all arguments, good, bad, or indifferent, ever advanced by any person calling himself a Socialist, would lead one to believe that socialism was rapidly becoming a menace to the political and industrial institutions of England. There is little in the book that is new. Nevertheless it is a very comprehensive collection of the ordinary arguments advanced against socialism, and will undoubtedly appeal to a large number of voters, whether or not they are Socialists, for as a rule the latter are as densely ignorant of the more fundamental principles of Marxian Socialism as is the author of the present volume.

IRA CROSS.

Stanford University.

Stimson, F. J. The Law of the Federal and State Constitutions of the United States. Pp. ix, 386. Boston: Boston Book Co., 1908.

This book is unlike the usual treatise on constitutional law, both in arrangement and manner of treatment. It is divided into three books. The first is composed of prefatory essays laying down the general principles upon which the constitutions rest. Books II and III present a unique comparative study of the English and the American constitutions. In Book II the statutes of the realm and the federal constitution are digested to bring out clearly the historical development of the bases of English liberty. Book III, which comprises the greater portion of the volume, makes also the most important of its contributions to constitutional discussion. It is a

concise analysis of all the present-day state constitutions. The arrangement is topical so that at a glance the similar or contrasting provisions in the various states may be seen.

The book is to be highly commended for the emphasis given to the state constitutions. The formal study of constitutional law is often confined entirely to a consideration of the national constitution to the neglect of the local instruments with which the citizens are in much more intimate and frequent contact. Ordinary texts on constitutional law this book will not supersede, but it will prove a great aid to those who seek to obtain a clear idea of the truly dual character of government in the United States.

CHESTER LLOYD JONES.

University of Pennsylvania.

Swift, E. J. *Mind in the Making: A Study in Mental Development*. Pp. viii, 329. Price, \$1.25. New York: Charles Scribner's Sons, 1908.

Professor Swift has produced a very interesting book on mental development in the child. The book is wholly inductive and has no particular theory of mental development to offer, although it accepts in the main, the culture-epoch theory. It presents a series of experimental facts which throw much light upon both normal and abnormal mental development in the child.

While written mainly as a basis for constructive pedagogy, and therefore largely from the standpoint of the individual, yet the book contains many things of value to the student of society and to the practical social worker. Of especial value is a chapter on the "Criminal Tendencies of Boys, Their Cause and Function." This is a careful psychological study of the whole matter of juvenile crime. Professor Swift shows conclusively, by inductive evidence, that every normal boy at a certain age has marked criminal tendencies. When the environment is favorable to crime, then those primitive impulses which "carry him on, with almost resistless fury, toward a life of crime" are developed. When, on the other hand, the environment is unfavorable to crime, these impulses are checked and their temporary manifestation becomes but an epoch in normal moral development. "The so-called criminal instincts of children are racial survivals of acts that in past ages fitted their possessors to survive."

The book's chief defect is an evident lack of wide acquaintance on the part of the author with sociological and anthropological literature. This gives rise to many omissions and several slips. For example, Professor Swift apparently endorses the theory that the primitive social state was "a war of all against all." This is not now the view which has the best support in anthropology. Research seems to have established conclusively that the lowest savages, and therefore probably primitive men, are comparatively peaceful. War and cannibalism seem rather to be characteristic of the stage of barbarism than of lower savagery. This more exact statement of the theory, however, accords even better with Professor Swift's "culture-epoch" theory of juvenile criminality; for the more egoistic and criminal

tendencies of children are not found in early childhood, but from twelve to sixteen years of age.

Concerning the many somewhat radical educational theories in the book the writer of this notice does not feel competent to judge; but in general they seem to be in line with modern educational progress.

CHARLES A. ELLWOOD.

University of Missouri.

Webb, Sidney and Beatrice. *English Local Government.* 2 Vols., Pp. 858.

Price, each \$3.50. New York: Longmans, Green & Co., 1908.

The authors of these excellent volumes are well known to the world of scholarship as being two of the most prolific and scholarly of living writers. Some of their literary productions are recognized the world over as the most authoritative treatises of their kind. Heretofore the Webbs have confined their activity mainly to the study of labor and industrial problems, but now they have invaded the field of political science and have brought out three large volumes dealing with the subject of local government in England. For thoroughness of treatment and lucidity of presentation they are surpassed by few English treatises. The first volume of the three which have already appeared was published last year and embodied the results, we are told, of eight years' research into the manuscript records of the parish and the county from 1688 to 1835, all over England and Wales. The two volumes under review deal with the government of the manor and the borough or, roughly speaking, that part of English local government not included in the county and parish administration. It may be called the exceptional part of English local government and is in some respects the most picturesque part. Of the two volumes under review the first deals with the Lord's Court in its various forms—the Court Baron and the Court Leet—which during the period from 1689 to 1835 was in process of gradual decay; the manorial borough; the borough of Westminster; the boroughs of Wales; and the municipal corporation. Of the last volume approximately one-half is given up to a somewhat detailed account of the working constitution and administrative achievements of ten select municipal corporations in different parts of England, among which are included types like the little port of Penzance in Cornwall, the little market of Morpeth in Northumberland, the great ports of Bristol and Liverpool, the lesser ports and fishing havens of Ipswich and Berwick-on-Tweed, ancient industrial centers like Norwich and Coventry and inland towns destined to become great manufacturing centers, such as Leeds and Leicester. More than one-third of the volume is devoted to a study of the City of London which was, of course, the most important of all the English municipalities. The work concludes with a masterful analysis of the conditions which led to the municipal "revolution" of 1835, and the passage of the Municipal Corporations Act. There is a valuable subject index of 81 pages, an index of authors and persons and an index of places. Most of the chapters are accompanied by select bibliographies and every page is supplied

with copious footnotes principally of a bibliographical and critical character. These three volumes together constitute a valuable and permanent addition to the literature of English local government. They contain a vast mass of facts, concisely and logically arranged. They are written in a style both clear and interesting and they contain abundant evidence of immense research and intimate knowledge of the subjects treated.

J. W. GARNER

University of Illinois,

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pap., principal paper by the person named; *b.*, review of book of which the person
 named is the author; *r.*, reviewed by the person named.

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